

NOVEMBER 2009 No. 06

# Post-2011 scenarios in Sudan: What role for the EU?

EDITED BY

**Damien Helly**

CONTRIBUTORS

**Suliman Baldo**

**Maria Gabrielsen**

**Fabienne Hara**

**Damien Helly**

**Fouad Hikmat**

**Michael Kevane**

**Roland Marchal**

**Tim Murithi**

**Luke Patey**



# POST-2011 SCENARIOS IN SUDAN: WHAT ROLE FOR THE EU?

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|  |           |
|--|-----------|
| Executive Summary  | 3         |
| <b>Introduction</b>  | <b>6</b>  |
| <b>I. Scenarios for the CPA framework and implementation</b>                               | <b>9</b>  |
| The implementation of the CPA and scenarios for Sudan                                      | 9         |
| Post-2011 challenges in oil-rich Abyei   | 18        |
| The need for short-term solutions and agreements   | 19        |
| <b>II. Outside and beyond the CPA: scenarios</b>   | <b>25</b> |
| Darfur and whole-of-Sudan scenarios  | 25        |
| The Northern elite, regime scenarios and the ICC   | 31        |
| <b>III. Dealing with the future of the economy</b>   | <b>36</b> |
| Macroeconomic trends and scenarios for post-referendum Sudan                               | 36        |
| Asian oil diplomacy in Sudan?  | 44        |
| Trends in the oil sector and post-referendum scenarios                                     | 45        |
| <b>IV. The way forward for regional and international policies</b>                         | <b>52</b> |
| The regional dimensions of post-referendum Sudan: the AU and IGAD, and neighbouring States | 52        |

|   |    |
|---|----|
| Ongoing initiatives to facilitate dialogue between the parties on post-CPA challenges | 58 |
|---|----|

---

|  |    |
|--|----|
| International actors in Sudan: the urgent need to unite behind an all-Sudan strategy | 59 |
|--|----|

---

|  |           |
|--|-----------|
| <b>Conclusion: coordination on post-2011 arrangements and options for the EU</b> | <b>66</b> |
|--|-----------|

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## ***ANNEXES***

---

|                             |           |
|-----------------------------|-----------|
| <b><i>Abbreviations</i></b> | <b>69</b> |
|-----------------------------|-----------|

---

|   |           |
|---|-----------|
| <b><i>Notes on the contributors</i></b> | <b>71</b> |
|---|-----------|

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## EXECUTIVE SUMMARY

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In a forward-looking perspective, this report elaborates on four scenarios for Sudan's future preliminarily identified by other studies: (i) forced unity; (ii) forced secession; (iii) agreed unity; (iv) agreed secession. It looks specifically at the key variables to be taken into account to anticipate the most probable scenarios and to see which options would bring more benefits than costs to the Sudanese people and their leadership. The report presents the views of a group of Sudan experts which, overall, are strikingly convergent and are summarised below. It also identifies long-term, mid-term and short-term recommendations for the EU and for all stakeholders concerned by Sudan's future.

The separation of Southern Sudan from the North of the country in 2011 or even before is very likely – a transition that will probably not take place without violence. It must therefore be anticipated by an ambitious regional and international peacemaking initiative in which the EU should play a proactive role. Immediate challenges, if not addressed, may otherwise have serious repercussions in Africa and the Middle East, two strategic neighbouring regions for Europe.

First, domestic Sudanese peacebuilding dynamics are reaching their limits despite US mediation efforts. This is even more the case due to the fact that resistance from the al-Bashir and NCP-led regime to external pressure constrains the effectiveness of African regional organisations like the African Union (AU) or the Intergovernmental Authority on Development (IGAD) in exerting transformative policy influence over Khartoum. Immediate steps must therefore be taken to convince the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) to agree on appropriate benchmarks and measures to ensure free and fair upcoming elections on a national level and a self-determination referendum in the South while not compromising the chances of the Darfur peace process bearing fruit.

Second, it is to be assumed that Southern Sudan is going to secede from the North after the 2011 referendum or even before and this requires planning from the parties as much as from the international community. Because the partition of Sudan will have consequences for regional and international security, more proactiveness from global players is needed to gather different ongoing dialogue promotion initiatives regarding post-2011 issues under a single multilateral umbrella.

Third, the EU has a complementary political role to play with the US to engage global, Arab and African powers and organisations in this process and provide its own expertise. The EU needs to pragmatically endorse the assumption of Southern secession and adopt a 'peaceful coexistence strategy' using all existing European instruments in a more coordinated manner. To attain this objective, EU Member States need to mainstream their policies by maximising the role played by national envoys

and create a single EU framework within which they can work. The EU could then advocate for a strong internationally backed-up dialogue promotion policy.

Finally, in the long term, and despite Sudan's good macroeconomic performance, prevention and mitigation of violent conflicts in the country will remain necessary for decades to come.

## Key recommendations to the EU

### In the next few months:

- Prioritise its support to African partners as key players in the post-referendum situation, for example the AU, and subscribe to peacemaking initiatives such as those currently being pursued by Thabo Mbeki.
- Optimise the synergy of national European and EU envoys by gathering them in one strengthened EU team including national diplomats, European Commission staff and the current EUSR team.
- Convene, together with the E6 (the US, China, Russia, France, the UK and the EU) a conference at the highest possible level, to agree on an all-Sudan strategy following a road map comprising several steps: (a) joint assessment of diplomatic levers that could be used to convince the parties to organise elections in late 2010 once, as hopefully will turn out to be the case, the Darfur peace process has yielded results; (b) defining benchmarks for fair elections in 2010 and other consultations in 2011, recognising the importance of fair participation and stability in Darfur and of the 2011 self-determination referendum in the South; (c) planning the internationally coordinated management of a transition period between unity and full separation to defuse tensions and reshape the international presence in Sudan; (d) establishing a negotiation framework for post-secession issues, with a work plan and timetable to address the issues of sovereignty transfers, wealth transfers and sharing; adequate formats, clusters and division of labour for the international players; and negotiation methodologies and agendas.
- Appoint as a matter of urgency a team of experts supporting the EU Special Representative and the European Commission. They should cooperate as closely as possible with the AU to start work on concrete proposals regarding an internationally supported negotiation framework and programme on post-2011 issues and in particular on (a) the division and transfer of state assets and (b) external incentives for the parties to engage in negotiations.

- Fund and monitor the 2010 elections, self-determination referenda and popular consultations in the South and transitional areas, provided the minimum benchmarks mentioned above are maintained.

**In the next 24 months:**

- Engage with non-E6 powers and organisations (the AU, IGAD, LAS, India, Malaysia, South Korea) to be more active partners in supporting the whole spectrum of post-2011 arrangements.
- Lead the donor community to support South Sudan institutional capacities and governance in all vital sectors (health, food, security governance and state building) as well as in the Nuba Mountains, Abyei and the Blue Nile.

**In the next two to ten years:**

- Consider contributing to an ‘insurance against shocks’ fund for Sudan to prevent civil war and conflict outbreaks linked to weather shocks.
- Consider technical assistance on large-scale urban planning where appropriate.
- Continue to work with both the Government of Sudan and the Government of South Sudan to develop their technical oil expertise and support initiatives to improve transparency and accountability by engaging oil companies involved in Sudan (i.e. from China, Malaysia and India) as well as Sudan’s main oil consumers (Japan).
- Support, following existing best practice in Sahel, Sudanese communities and authorities more systematically and over the long term in promoting livestock sectors and mitigating conflict over grazing lands through inclusive and legitimate processes.

## INTRODUCTION

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In a forward-looking perspective, the method followed by this report has been to elaborate on four scenarios for Sudan preliminarily identified by other studies: (i) forced unity; (ii) forced secession; (iii) agreed unity; (iv) agreed secession. The idea is to look specifically at the key variables to be taken into account to anticipate the most probable scenarios and to examine which options would bring more benefits than costs to the Sudanese people and their leadership. The report presents the views of a group of Sudan experts which, overall, are strikingly convergent. It thus identifies long-term, mid-term and short-term recommendations for the EU and for all stakeholders concerned by Sudan's future.

In the last few months, a string of publications have appeared, warning about Sudan's challenges and post-referendum scenarios, so that there is now no shortage of expert advisers and potential mediators on the scene. Of course, think tanks cannot replace diplomats or political leaders but their role is to urge them to deliver solutions and help them convince world leaders when necessary. This is the primary purpose of the present EUISS report.

Sudan's peace processes in the South of Sudan and Darfur have experienced some kind of continuity since 2005: no major breakthrough or deterioration, but an unstable balance of powers sometimes blocking, sometimes allowing the endless business of conflict resolution and mediation to proceed. This intractability could go on indefinitely. It could also lead to a new large-scale conflict or to civil wars, especially in the South. For how long will this highly unstable situation be acceptable to the neighbouring countries and major investors and peace guarantors in Sudan?

As the report of the AU Panel on Darfur has noted, Sudan is 'a microcosm of Africa's peoples' and a 'bridge between North Africa and Sub-Saharan Africa.'<sup>1</sup> The Afro-Arab divide, the memory of past conflicts, the need for reconciliation and what Ruth Iyob calls the 'politics of honour' will remain essential in prevention and peacebuilding approaches.<sup>2</sup> As for land resources and pastoralist issues, closely linked to water management, they are a long-term challenge for policy and peace makers, as elsewhere in Africa. The purchase of extensive terrains by foreign powers such as Saudi Arabia, the United Arab Emirates, Egypt or South Korea also means that these powers will have a vested interest in some form of stability in Sudan to be able to use these lands.<sup>3</sup>

1. 'Darfur: the Quest for Peace, Justice and Reconciliation', Report of the African Union High-Level Panel on Darfur (AUPD), PSC/AHG/2(CC/II), 29 October 2009.

2. Ruth Iyob, 'Prospects for a New Sudan: Which People, Whose Right? What Choices?', background paper for the 8-9 June 2009 EUISS workshop.

3. *Courrier International*, 'Touche pas à mes terres', no. 99, 1-29 October 2009.

Indeed, Sudan's stability is key not only for Sudan itself. The knock-on effects of renewed large-scale conflicts could be considerable for the rest of the Horn of Africa, Kenya, Uganda and Eastern DRC. These countries risk being affected by forced migration, displacement and humanitarian crises, cross-border armed groups and militias, food insecurity and the challenging of international agreements governing the use of Nile waters (two-thirds of which are within Sudan's borders).<sup>4</sup> Further deterioration of the situation in Darfur would again impact on the Central African Republic, Chad and the Sahel where instability is already increasing.

Increased regional tensions would translate into more acute political divisions on the continent and make the African Union's governance even more difficult. The probable emergence of a new country on the map of Africa raises new challenges for the continent and could, if not well managed, lead to a spiral of states disintegration. Sudan is therefore a test case for the African Peace and Security Architecture, African sub-regional organisations (IGAD in particular) and their prevention and mediation mechanisms.

As part of the Middle East, Sudan's future should also be a matter of concern for Arab states and even regional powers such as India, who, while being geographically much less close, has invested substantially in the country. Connections with Islamist movements as well as with the Israel-Palestine conflict also make the country an important player for global powers. Russia and China probably see Sudan as part of a broader geostrategic chessboard which covers Africa and the Middle East (in very broad terms) but also other parts of the world and other items on the global governance agenda.<sup>5</sup>

The international community is facing three main dilemmas in Sudan. A timing dilemma between the Darfur peace process and CPA implementation; a dilemma between efficiency in CPA implementation and the legitimacy of elections; and a dilemma between respect for self-determination and the risks of state fragility posed by a future independent South Sudan. Other urgent matters of concern are related to crisis management and prevention in the South and in the transitional areas up to 2011. The report seeks to provide answers to these dilemmas and emergencies.

There most probably will be at least two separate Sudans in the future. This is supposed to be decided by a referendum and popular consultations in 2011 but the holding of such a referendum is surrounded by more and more uncertainty. Given the likelihood of secession, there is an urgent need for the parties to plan it in advance so as to ensure that it takes place as smoothly as possible. Deals must be nego-

4. Mike Lewis, *Skirting the Law: Sudan's Post-CPA Arms Flows* (Geneva: Small Arms Survey, September 2009); Mustafa Babiker, 'Post-Referendum Sudan: Scenarios and Implications for Agriculture and Natural Resources', background paper for the 8-9 June 2009 EUISS workshop. Sudan's natural resources are of interest to the whole region and beyond; they have often been among the causes of conflicts, as for instance in the case of the Jonglei canal project.

5. Mohammad-Reza Djalili and Thierry Kellner, 'Moyen-Orient, Caucase et Asie centrale: des concepts géopolitiques à construire et à reconstruire?', *Central Asian Survey*, vol. 19, no. 1, 2000, pp. 117-40.



tiated on wealth transfers (oil infrastructure, revenues and trade, state assets including state-owned companies, debts, Nile Water management) and on power and sovereignty transfers (citizenship, border security and policy, Southern state institutions). The report explores various ways of carrying out these negotiations and identifies how the international community and, in particular, the EU and its Member States, as a soft power, could contribute to this process.

The international and regional implications of a secession will also have to be explored and discussed in detail by the future Southern Sudanese leadership and its potential future neighbours and the African Union or other relevant African organisations. Planning these transformations will require ambitious, proactive and out-of-the-box supporting initiatives by the international community, using innovative frameworks and methods combining efficiency and inclusiveness.

In the medium and long term, crisis prevention in Sudan (North and South) will remain an ongoing and necessary policy approach. Land tenure and natural resources management and food security are important long-term challenges. Equally important will be reconciliation (at the local and national level), compensation and justice (notably as a local conflict resolution mechanism). Security sector governance and respect for democratic values will continue to be priorities for decades, especially given the growth of increasingly numerous urban centres.

## I. SCENARIOS FOR THE CPA FRAMEWORK AND IMPLEMENTATION

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### THE IMPLEMENTATION OF THE CPA AND SCENARIOS FOR SUDAN

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#### **The CPA: How comprehensive has it been? Assessing implementation to inform scenario planning**

Imagining scenarios for Sudan's near and long-term future must begin with an honest assessment of the implementation of the core components of the Comprehensive Peace Agreement (CPA), as this deal has been the main framework guiding national and international policies in the country. The CPA's provisions fall into three main categories: those focusing on the central government and national-level reform, those focusing on the South, and those focusing on the transitional areas (Southern Kordofan, Blue Nile and Abyei). Implementation has been uneven across these three categories, with significant implications for the post-2011 period. The state of governance in the North beyond 2011 is the single most important criterion for whether Sudan moves towards long-term peace and stability, or increased conflict and potential state collapse.

The CPA's southern-focused provisions have been the object of the most attention and have the best record of implementation, while provisions for the transitional areas and national-level reform both lag far behind. This distinction is important because the CPA's provisions allowing more autonomy for the South have already altered the facts on the ground. Perceived in the South as steps towards self-rule and, ultimately, independence, they will be difficult to reverse without a drastic change. For example, an autonomous regional government, the Government of South Sudan (GoSS), has been established and taken administrative control, and the Sudan Armed Forces (SAF) have withdrawn from the South leaving the Sudan People's Liberation Army (SPLA) as the sole military force. By contrast, the CPA's impact in the transitional areas and at the national level is more limited and remains fragile, with the CPA's long-term legacy for these areas far less certain. This can first be explained by the fact the transitional areas and the national level remain politically contested between the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) and others, with one party's agenda still largely coming at the expense of the other. Another reason for a limited impact of the CPA at national level and in transitional areas is that the agreement put in place longer-term processes for eventual change, such as the popular consultation and national elections, but did not immediately alter the facts on the ground in a radical or irreversible way as happened in the South.

This highlights three aspects which help inform the scenario planning exercise of this report. First, the national-level dynamics will continue to be the single most important factor for determining peace or conflict in a united or divided Sudan post-2011. The record of implementation of the provisions of the CPA to date is worrying, and the level of progress in implementing the CPA's national reform agenda in the agreement's remaining months will be crucial for post-2011 peace and stability. Second, because of *de facto* autonomy in the South and the likelihood of a southern secession vote in the 2011 referendum, internal southern governance issues will most probably be as determinant of the state of play in the South post-2011, as Juba/Khartoum dynamics, despite the fact that the SPLM-led GoSS will remain economically reliant on Khartoum for the transfer of oil revenue. Finally, the transitional areas remain fragile precisely because they are so closely tied to national-level dynamics, southern dynamics, and Darfur. In the coming months, they may present a high risk of renewed conflict depending on the level of implementation of the relevant CPA protocols. Post-2011 dynamics in the transitional areas (particularly Southern Kordofan and Blue Nile) will then probably be affected first and foremost by their own internal factors.

## 1. Post-2011 scenarios for the national level and Northern Sudan

The state of governance in the North beyond 2011 is the single most important criterion for whether Sudan moves towards long-term peace and stability, or increased conflict and potential state collapse. There is a shared perception of exclusive governance practices at the centre in the South, the transitional areas, Darfur, the East, and the far North, and this is the common root cause underpinning Sudan's multiple current or potential conflicts. While the South may well vote for independence at the end of the interim period – thereby opting out of Sudan's governance quagmire, rather than solving it – the state of governance in the North will be a crucial issue for future attempts to resolve Darfur, maintaining peace and stability in Southern Kordofan and Blue Nile, and deciding whether new conflicts erupt in the North post-2011.

The CPA's national reform agenda has been largely ignored. Yet this aspect of the CPA is the only element that can claim to be comprehensive. The national reform agenda was intended to be transformational – beginning with the transparent decentralisation of power and resources from the centre to the states, establishing processes for a more inclusive and representative national civil service, a reform of the national laws in line with the principles of the CPA, and culminating in free and fair national elections. In reality, little of this agenda has been implemented. The NCP has resisted, perceiving it as a threat to its survival; the SPLM has failed to pursue this as a priority; and the CPA's international guarantors have largely ignored this element of the peace deal. Yet this reform agenda provides the single greatest overlap between the CPA, Darfur, the East and the rest of Northern Sudan. Failure to make progress on this agenda before the end of the CPA's interim period will not just be

a wasted opportunity, but will set the stage for significant new violence in Northern Sudan, as peripheral areas will likely continue to resort to arms to try to gain their rights from the centre.

The CPA, before it expires in 2011, still provides entry points and opportunities for government reform and the longer-term stability of Northern Sudan that have been enshrined in the interim national constitution. Elections are an important and highly visible element of this agenda, but they are not a panacea for democratic, transparent government reform, particularly in the current context. Also important to Sudan's longer-term stability are CPA provisions such as national civil service reform, and the establishment of a functioning and transparent Fiscal and Financial Allocation and Monitoring Commission (FFAMC) to regulate the distribution of financial resources from the centre to the states. Progress on this national reform agenda will provide fertile ground for an eventual resolution of the Darfur conflict, just as failure to implement this agenda will frustrate the search for peace in Darfur. Similar arguments can be made for Southern Kordofan, Blue Nile, Eastern Sudan and the far North in a post-2011 Sudan. Yet after the expiration of the CPA, these entry points for government reform will evaporate, and the SPLM – which has been an agent of change in Khartoum, even if inconsistent and at times ineffective – may well split, losing the bulk of its political and military weight to an independent South. For Sudan's unity to be made attractive to southern voters, for tensions between the centre and peripheries in the North to be managed peacefully, and for long-term peace and stability between North and South Sudan, regardless of the outcome of the referendum, government reform in Khartoum appears paramount.

### **Recommendation to the EU**

Before the expiry of the CPA, the EU and broader international community need to intensify their efforts to seize on the remaining opportunities presented by the CPA for advancing government reform and thereby smoothing centre-peripheries relations and preserving long-term stability in North and South Sudan, irrespective of the outcome of the referendum.

**Post-2011 scenarios for the North and national level:**

| Forced Unity  | Forced Secession  | Agreed Unity  | Agreed Secession  |
|---|---|---|---|
| Variable: Substantial progress achieved on national governance reform before 2011 |   |   |   |
| <p>(1) Forced unity is an unlikely outcome under this scenario.</p>               | <p>(1) Under a more open, democratic and transparent government in Khartoum, greater likelihood of peaceful North-South coexistence.<br/>2) Strong cross-border links between SPLM North and South, encouraging peaceful coexistence.</p> | <p>(1) National government reform is a prerequisite for this scenario to be realistic.<br/>(2) Likely unrest in South due to lack of independence, but positive effects for resolution of Darfur, and other peripheral areas.<br/>(3) SPLM becomes a more active national party, promoting democratic change.</p> | <p>(1) South opts out of governance debate in Sudan, SPLM/North disempowered.<br/>(2) Centre-periphery conflict dynamics improve with governance reform (or worsen without progress on the governance reform agenda.)</p> |

**2. Post-2011 scenarios for the South**

The outlook for Southern Sudan beyond 2011 hinges on two key issues: successful negotiations between SPLM/NCP on post-2011 arrangements around key issues affected by the vote on independence; and the professionalisation of the SPLA and southern security services, as part of a broader governance reform agenda in the South. The long-term outcome of both issues depends in large part on what transpires in the remaining months before the CPA expires.

Negotiations ahead of the referendum on certain key issues are critical for both Khartoum and Juba. Without having agreements in place, the referendum risks being perceived as a zero-sum game, with the likely independence vote regarded as a losing proposition by some in Khartoum or in northern border communities affected by a secession vote. Reaching mutually beneficial arrangements on these key issues ahead of the referendum is important for both short-term and long-term stability. In the

run-up to 2011, having these arrangements in place would reduce uncertainty and the risk of political violence around the referendum, and alleviate fears about the implications of a possible independence vote. In the longer term, it helps set the terms for peaceful cooperation and interaction between North and South on key issues, and would reduce the risk of future disagreements between two independent states.

Of the many implications of southern independence, oil revenue sharing is among the most contentious, with a high risk of a return to war if mutually beneficial arrangements are not found. With the bulk of Sudan's oil in the South but the pipeline running through the North, each side has the capacity to harm the other's economy, at its own expense as well. Cooperation is the only way to get the South's oil to market, via the northern pipeline, and guarantee any meaningful revenue flow to the South beyond 2011.

**Post-2011 scenarios for the South (Table 1):**

| Forced Unity   | Forced Secession  | Agreed Unity   | Agreed Secession  |
|--|---|--|---|
| Variable: SPLM/NCP negotiate post-2011 issues ahead of referendum  |   |  |   |
| (1) If negotiations are unsuccessful, high likelihood of return to war in forced unity scenario.<br>(2) Current CPA power/wealth sharing terms between North/South to stay in place? | (1) High potential for conflict, but also potential 'no war, no peace' scenario where terms are negotiated on the fly between North/South.<br>(2) Continued risk of instability and delayed conflict, as per Ethiopia/Eritrea.<br>(3) Ambiguous international response? | (1) Negotiations less urgent, risks are reduced.<br>(2) Some negotiations still necessary, for South's post-CPA wealth, power and security arrangements. | (1) Negotiations (at least partly) successful pre-2011<br>(2) Terms set for some inter-state cooperation on key issues.<br>(3) Increases likelihood of international recognition, and smooth transition.<br>(4) Reduces risk of conflict in transitional areas post-2011. |

The second key variable for the post-2011 South is the ability of the SPLA and southern security bodies to assert a monopoly on use of force in the South. Although the CPA provided a common end-goal to rally southern unity, and triggered a series of successful south-south reconciliation initiatives, there has been a sharp rise in intra-

southern violence in 2009. There are allegations of northern support to fuel southern infighting, which is consistent with past NCP tactics but unconfirmed. The recent upsurge in violent tribal fighting in the Jonglei and Lakes states, in particular, reflect in part the failures of past SPLA disarmament exercises, and the troubled implementation of the Juba Declaration.<sup>1</sup>

In the short term, key issues to watch in the run-up to 2011 include: (i) the level of progress in training, streamlining and equipping the SPLA towards becoming a credible national army able to respond effectively to security threats in the South; (ii) the degree to which the SPLA is seen as an inclusive and representative southern force. Similar concerns also exist at the level of the GoSS, and therefore progress on a more inclusive and transparent southern government is equally important for determining perceptions of the SPLA; (iii) the ability of the GoSS/SPLA to run more effective disarmament efforts, as well as efforts related to broader security sector reform. Progress on these three issues will be difficult, but will be crucial for a peaceful post-2011 scenario, be it unity or secession. If the coming months see a continuous increase in intra-southern fighting in the run-up to 2011, whether caused by the eruption of resource conflicts or political manipulation, it will be an ominous sign for Southern Sudan's future.

In the longer term, the re-emergence of violence in the south is a worrying trend that risks increasing in the lead-up to, and aftermath of, the referendum. The self-determination referendum provides southerners with an opportunity to act on their national aspirations, but a vote for secession may highlight internal divisions. Without Northern Sudan to provide a unifying factor in the form of a (real or perceived) 'common enemy', southern differences and fault lines risk being intensified. Unity scenarios are perhaps less likely to lead to new conflict, but the status of the SPLA and southern security services will be a major factor in either resolving/preventing new conflict, or causing or exacerbating new fighting.

## Recommendations to the EU

The EU should engage in ambitious diplomatic initiatives at the level of heads of state/government to work with key players in the international community to promote and support dialogue between the parties on a free and fair referendum process as set out in the CPA, and on post-2011 arrangements. In the short term, the EU and its Member States should support security sector reform in the South, according to internationally agreed standards.

1. The integration of the ex-South Sudan Defence Forces (SSDF) militias into the SPLA via the January 2006 Juba Declaration substantially improved security in the South, but implementation has been difficult and fault lines remain in the army and throughout the southern political arena more generally.

**Post-2011 scenarios for the South (Table 2):**

| Forced Unity   | Forced Secession  | Agreed Unity  | Agreed Secession  |
|--|---|---|---|
| Variable: Progress on professionalising the SPLA and southern security services  |   |   |   |
| <p>(1) Professionalisation efforts put on hold, likely mobilisation for renewed fighting in response to forced unity.</p> <p>(2) NCP attempts to manipulate southern divisions; countered by calls for southern unity in face of common enemy.</p> <p>(3) Integration of SPLA and southern security services into national structures?</p> | <p>(1) Professionalisation efforts put on hold, likely mobilisation for risk of renewed fighting immediately after secession declaration.</p> <p>(2) Potential split between SPLA/M in South and SPLA/M in North. Questions around status of northern SPLA.</p> <p>(3) Continued wealth-sharing arrangements necessary to pay salaries.</p> | <p>(1) SPLA to be merged into new national army, based on Joint/Integrated Units.</p> | <p>(1) Professional security services, inclusive SPLA/GoSS crucial to continued peace in South and handling upsurge in internal conflict.</p> <p>(2) Continued risk of intra-southern conflict, and new external 'national' threats. Reassessment of national threats, leading to potential redistribution of forces.</p> |

**Post-2011 scenarios for the transitional areas**

With regard to Abyei, Southern Kordofan and Blue Nile, the first two remain fragile in part because CPA implementation lags far behind in these areas, and in part because what happens in these two areas will have implications well beyond their borders.

Abyei is closely tied to the South, with its own referendum likely to lead to its inclusion in an independent Southern Sudan. Because of Abyei's connection to the South, in the short term, the risk of renewed conflict there will therefore be highest in the lead-up to 2011. Possible triggers of conflict include SPLM/NCP disagreements over oil revenue, Misseriya/Dinka Ngok tensions, and continued uncertainty about Abyei's borders. Yet if Abyei can navigate these issues peacefully, with broader oil revenue sharing arrangements between North and South, and guarantees for continued Misseriya grazing access put in place, Abyei will hopefully be relatively stable



in a post-2011 scenario, be it unity or secession (with Abyei voting to join the South the most likely outcome).

By contrast, Southern Kordofan and Blue Nile do not have a clear end-game provided by the CPA. Instead of a referendum, these states were granted 'popular consultations,' through which their state legislatures can reassess their political arrangements under the CPA, and theoretically open them up for renegotiation. Although each state has substantial NCP/SPLM power-sharing arrangements ahead of elections, including rotating governors, Southern Kordofan in particular remains at risk. Popular consultations remain undefined and largely theoretical at this point, raising questions about whether this process will adequately address the grievances that could lead to new conflict before or after 2011.

There are diverse factors behind the instability in Southern Kordofan, but the most pressing include the following: (i) the future of the Misseriya, and their disempowerment and unhappiness about the loss of Western Kordofan State and the Abyei Protocol; (ii) problems of integration between SPLM and NCP administrations in the State; (iii) internal divisions within SPLM, and uncertainty around the future of SPLM/A-Nuba if the South secedes; (iv) NCP manipulation of state finances and corruption. In theory, popular consultations can address these factors in an orderly and satisfactory manner for the citizens of Southern Kordofan, providing a peaceful outlet for grievances and political demands. For example, it is possible that the Misseriya would demand the return of Western Kordofan State, and SPLM-Nuba would demand a strengthening of the state land reform commission. Yet at the moment, a credible popular consultation seems unlikely, given the challenges facing state elections (a prerequisite for popular consultations) and the lack of progress to date in defining the process or the mechanism. Both SPLM and NCP continue to view Southern Kordofan, and to a lesser degree Blue Nile, as battleground states, although the recent appointments of Ahmed Haroun as Governor (NCP) and Abdelaziz al-Hilo as deputy governor (SPLM) have yielded some early benefits.

If popular consultations are not successful and credible, and these issues are left unresolved beyond 2011, then there is a high risk of conflict in Southern Kordofan post-2011 in any secession outcome. Blue Nile is less directly tied to broader Darfur/oil/SAF-SPLA fault lines, but will be impacted if fighting resumes. A unity outcome would be harder to predict, because it carries with it the possibility of dramatic political reform in Khartoum, which would benefit the transitional areas.

## Recommendations to the EU

As part of its support to full implementation of the CPA, the EU should support Sudanese efforts to maintain peace in the transitional areas. It could also help mobilise, if Sudanese parties are in agreement, African and international support to the organisa-

tion of elections and public consultations in the transitional areas. Particular focus on early warning, crisis mitigation and peacekeeping in Abyei, through local, national and international mechanisms, should be maintained and supported in the short term.

**Post-2011 scenarios for the transitional areas:**

| Forced Unity   | Forced Secession   | Agreed Unity  | Agreed Secession  |
|--|--|---|---|
| Variable: Credible popular consultation processes in Southern Kordofan and Blue Nile   |  |   |   |
| <p>(1) Strengthened links between SPLA/M in the South and in the Nuba Mountains and Blue Nile. Possibility of a return to war.</p> | <p>(1) Uncertainty around role of SPLA/M Nuba and Blue Nile in the North. Risk of conflict.<br/>                     (2) Risk of conflict in Abyei, if Misseriya grazing rights are unresolved.<br/>                     (3) Possible renewal of proxy war tactics by NCP.</p> | <p>(1) SPLA to be merged into new national army, based on Joint Integrated Units.<br/>                     (2) SPLM embraces national political agenda. Empowers Southern Kordofan/Blue Nile, challenges NCP politically.</p> | <p>(1) Uncertainty around role of SPLA/M Nuba and Blue Nile in the North. Risk of conflict. Risk of SPLM North-South split.<br/>                     (2) Risk of conflict in Abyei, if Misseriya grazing rights are unresolved.<br/>                     (3) Possible renewal of proxy war tactics by Khartoum.</p> |

## POST-2011 CHALLENGES IN OIL-RICH ABYEI

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Since the signing of the CPA in 2005, the region, located along the North-South border, has been the source of acute tensions, potentially threatening the whole agreement.

The border demarcation of the territory, which ultimately determines the amount of oil revenues, is the core issue. The people of Abyei will in 2011 choose in a referendum whether they want to remain in the North or be integrated in the now semi-autonomous South. Hence, should the South choose to secede (the referendum for the South being held simultaneously) the borders of Abyei will also coincide with a part of the future border between North and South Sudan.

The boundaries drawn by the CPA-mandated Abyei Border Commission (ABC) in July 2005 were immediately rejected by the Sudanese government. After violent clashes in May 2008, the SPLM and the NCP referred the issue to the Permanent Court of Arbitration (PCA) of the Hague. In July 2009, the Court ruled on Abyei's boundaries, reducing its size and excluding the oilfields of Heglig and Bamboo, which are thus integrated into Southern Kordofan (North Sudan).

The decreasing oil revenues as a consequence of the exclusion of the oilfields will pose a challenge for the local administration of Abyei, especially given the delays in the allocation of oil revenues already produced in the region. With the PCA-ruling, the Ngok Dinka have become the dominant tribe in the region, which increases the likelihood of Abyei voting to join the South. The PCA specifically stated that the new boundary shall not prejudice traditional grazing rights. However, fears have been expressed that the nomadic Misseriya, traditionally closer to the North, may be treated as 'second-class' citizens in their own homeland should Abyei join the South. One of the most pressing issues today is thus implementing the border demarcation on the ground, as well as agreeing on the specific referendum law for Abyei.

## THE NEED FOR SHORT-TERM SOLUTIONS AND AGREEMENTS

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### Shortcomings in the implementation of the CPA and their impact on Sudan's stability

During the last four and a half years of the six-year interim period of the Comprehensive Peace Agreement (CPA), the partners of the Government of National Unity (the National Congress Party – NCP – and the Sudan People's Liberation Movement – SPLM) should have implemented several key provisions in the different chapters of the peace accord, to facilitate free and fair elections, and to make unity attractive to all as envisaged in the CPA. However, this did not happen. Because of the failure of the two parties to create these conditions, in addition to deep historical grievances in the South that have not been surmounted, unity is going to be extremely difficult to preserve.

The peace accords that are guiding the governance of Sudan – the Comprehensive Peace Agreement (CPA), the Darfur Peace Agreement (DPA), and the East Sudan Peace Agreement (ESPA) – are considered flawed and far from fully implemented, and are in fact on the verge of collapse. According to the CPA, there remains only 13 months to prepare the establishment of a new political order in Sudan by implementing the following objectives: achieving peace in Darfur, organising country-wide general elections in April 2010, carrying out public consultations in Southern Kordofan and the Blue Nile, and conducting Abyei and South Sudan self-determination referendums. 13 months will most probably not be enough.

If there is no breakthrough in the current political impasse, Sudan could return to full-scale war. If general elections are not organised in April 2010, the mandate of the current parliament and executive branch of the Government of National Unity (GNU) will end in July 2010. Sudan will then slide into a constitutional vacuum, six months before the referendum. If the constituencies in the South are not given guarantees by the North regarding the reform of governance for a new democratic Sudan through a swift implementation of the pending issues in the CPA, it is very unlikely that the country's unity could be maintained.

The only way to try to maintain Sudan's unity is via a deep and genuine governance reform. However, none of the key democratic values expressed in the chapeau of the CPA have been translated into practice under current Sudanese governance. In the power-sharing component of the CPA, some of the points the two parties disagree over include the results of the fifth housing and population census, the demarcation of the 1956 North-South border, the referendum law, legal reform, media and National Intelligence and Security Services (NISS) laws, to mention just a few. The national and state civil service commissions are not yet properly functioning and the human rights commission is yet to be established. There has been no progress so far

in establishing a process for national reconciliation. Although many of these elements are important ingredients for democratic elections, the money for the elections is not yet available. Regarding wealth sharing, the GNU has established key bodies foreseen by the agreement such as an effective and functioning Fiscal and Financial Monitoring and Allocation Commission (FFMAC). As for the security arrangement, there are still armed militias affiliated to the NCP and the SPLM and the Disarmament, Demobilisation and Reintegration programme (DDR) is stalled.

### **Why does the current political stalemate threaten the holding of the self-determination referendum in the South?**

There is a strong link between the general elections and the referendum. For the referendum to take place, the following conditions are required: the census must have been finalised and agreed by the GNU; the law on referendum must be passed; the general elections must have taken place; and the borders between the North and the South must have been demarcated in order to identify the voters eligible to participate in the referendum. There is no guarantee so far that the elections will take place, or even that the referendum will be organised. However, while delaying the general elections is not an option for the NCP, delaying the referendum is not an option either for the SPLM. On the one hand, delaying the elections would weaken the NCP's prospects of maintaining dominance over power in the North, and on the other hand, delaying the referendum would be considered by the SPLM as a grave loss of the most important right that they gained through the peace accord – the right to self-determination – potentially leading to a return to war.

Under the current circumstances, it is unlikely that elections and the referendum will be free and fair according to European standards, and the international acceptance of their results will probably depend more on political criteria (linked to the achievement of stability) rather than on merely technical benchmarks.

The northern and southern opposition parties waiting for a genuine opening for inclusion in power sharing see the current conditions for the elections as unconstitutional and undemocratic. They have however proposed a transitional government to prepare for democratic elections in Sudan. Furthermore, the Darfur insurgents believe that the NCP's intransigence in not implementing the CPA and other accords in full is no more than a strategy to hinder genuine democratic transformation, thus enabling them to continue to wield political and security control in Sudan. The insurgents in turn continue to maintain their objectives of regime change. They aim at weakening the NCP in order to find a political solution to their demands and Darfur grievances at large, thus adding further complexity to the political impasse. Mediators face time constraints and struggle to reconcile all conflict-resolution efforts in the search for a comprehensive solution.

## State of play and tactics of political forces ahead of possible elections

The NCP, believing that they are still in the driving seat in Sudan politics, will probably not compromise any time soon. In their view, compromise would only exacerbate the looming threats against them: the Darfur insurgency, possible alliances forged between the big political groupings including the SPLM; possible alliances between these groups and armed tribal groups such as the Baggara in Darfur and Kordofan, the Nuba and the Ingessana people of the Blue Nile; and a possible resurgence of violence in the east and in the north of Khartoum.

The NCP adamantly seek to maintain political and security control and to gain legitimacy through the elections. A renewed legitimacy would enable them to deal with the threats against their dominance and their ideological discourse, hence to be able to take decisive decision such as the declaration of a state of emergency and/or declaration of war.

However, the NCP knows that the use of force against them by others and a possible resurgence of war with the South would threaten their survival. Al-Bashir knows that he cannot go to war again, given the fragmentation within his own party, disillusionment within the Sudan Armed Forces (SAF), whose soldiers would be reluctant to engage in a *jihad* against the South or in Darfur, and disaffection with the leadership among the military wings of the party, due to corruption and top-heavy decision-making. The NCP know that they cannot enter into war again and sustain a military campaign, because if they do they will split and thus collapse as a party forever. The best option for the NCP would be to try to make an arrangement with the SPLM before the upcoming elections, but this would incur an even greater cost to them than the provisions of the CPA. In the absence of such an arrangement, the SPLM could succeed in engaging dialogue with the Baggara along the 1956 borders, and with the opposition parties and the Darfur rebel groups, to forge an alliance against the NCP. They already have the Nuba and Ingessana people on their side, and they could build other alliances in the North and thus put pressure on the NCP to accept changes.

The SPLM invited all parties to Juba for the All Political Parties Conference (APPC) in September 2009. The APPC presented a set of points to open the dialogue to all political forces in Sudan and led to the adoption of a declaration. The NCP refused to participate, seeing it as an attempt by the opposition to forge an alliance, and not as an opportunity to genuinely address the political impasse and achieve stability in Sudan.

The ceiling set by the SPLM in the APPC was no more than proper implementation of the CPA. They know that it is the NCP, and not the opposition parties, who is the crucial player and who can deliver if it wants to. Coming together with the northern opposition parties is a strategic step to generate a power balance by putting more pressure on the NCP to change its attitude. The NCP equally knows that the SPLM have no other option than to come back to the house (i.e. the GNU) to discuss the

unresolved issues, because the other options (alliance with others to confront the NCP, or a unilateral declaration of independence), under the current circumstances would not bring immediate stability to the South. That is why the SPLM, divided among unionists and secessionists, refused to discuss concrete alliances for the elections with the others who attended the APPC, as they felt it is premature for them to take such a step.

Because of uncertainties related to alliance-building ahead of the elections, both the NCP and SPLM have focused so far on short-term tactics without being allowed enough time to envisage long-term issues of peaceful co-existence in case of separation. The readiness of the NCP to discuss post-referendum arrangements, as expressed in the course of 2009, is not welcome by the SPLM which sees it as an attempt to maintain control over the South.

The SPLM and the NCP should recognise however that the future of Sudan – be it unity or separation – will not evolve in a peaceful and sustained manner, if there is no genuine change at the centre. The transformations of the centres (Khartoum and Juba) through democratic means and through the respect of the rule of law are vital ingredients to sustain a peaceful future of Sudan, whether the country remains united or is partitioned.

### **Short-term solutions to ensure the referendum in the South and long-term regional stability**

Both the NCP and SPLM believe that if the CPA collapses, the whole country will be affected, with possible adverse effects on neighbouring states. Bilateral agreements between the NCP and SPLM as suggested by some international Sudan envoys would probably defuse the tension, but would not fully resolve the Sudan problem.

So far, the CPA has provided an overall political framework, but what has transpired from its weaknesses – its bilateral nature, the exclusion of other stakeholders – makes it imperative to think ‘out of the box’, about new formats and new methods. What is needed is the negotiation of an additional protocol to the CPA along the following principles:

- A post-referendum transitional period should be established, to allow more time for genuine political accommodation in the North and South of Sudan in a democratic setting, and to implement the outcome of the referendum, the date of which should be maintained as January 2011. Accordingly, the parties could agree on a new timeframe, to postpone the general elections to November 2010. Attempting to fix existing shortcomings of the CPA by further piecemeal amendments would be a deadly mistake. It would lead to frustration from all sides and culminate in violence and humanitarian crises. Delaying the elections would also give the parties more time to work on and negotiate the outstanding post-referendum issues that

are not stipulated in the CPA and achieve a genuine settlement of the Darfur conflict, which would also mean that more Darfuris would be able to participate in the elections.

- The scope of stakeholders should be broadened. The additional protocol needs to be supported by other Sudanese stakeholders than just the NCP and SPLM. The current situation obliges all stakeholders, nationally and internationally, to find an ‘all Sudan’ strategy for achieving peace, thus dealing with Sudan as a whole and not North-South or Darfur-Centre. The efforts of chief mediator Djibril Bassolé to develop a strategy for inclusive Darfur political negotiations based on the African Union Peace and Security Council (AUPSC) decisions regarding the African Union High-Level Panel on Darfur (AUPD) recommendations should be carried out in a whole-of-Sudan perspective. Diplomatic work to obtain the cessation of hostilities and effective ceasefire in the coming months should aim at allowing internally displaced persons (IDPs) to return to their areas of origin, before the next rainy season, and to finally achieve a peaceful settlement before August 2010 in order to allow for proper voter registration three months before the elections.
- The working methods should become more multilateral. With the two major parties drifting apart, the role of the international and regional players in assisting the Sudanese to find a way out is more important than ever before. This should become the priority of the international community, especially of the troika members: China, the African Union (AU) and the Intergovernmental Authority on Development (IGAD) must agree on a common Sudan policy.

They need to convince the NCP and SPLM to negotiate an additional protocol for the CPA implementation that reviews the timeframe of the remaining CPA benchmarks – including the postponement of elections – and create a post-referendum transition period to organise the peaceful transfer of sovereignty to a new southern State. The length of the new post-referendum transition should probably be equivalent to a new full parliamentary term – four years – as it should lead to a new electoral cycle, possibly organised in the two separate States of Northern and Southern Sudan. This overall process will require both strong and united international leadership, as well as the goodwill of the two signatories of the CPA, but in order for it to be successful it is also imperative that other major political forces in Sudan be consulted and buy in. What is needed is overall support to improve governance in the North and South, through – *inter alia* – credible elections.

The major signatories and guarantors of such a protocol should be the current guarantors of the CPA, particularly the US and IGAD and signatories of the DPA, East Sudan Peace Agreement (ESPA) and the major political parties. Key to this proposition is reaching new arrangements that include mechanisms that are politically acceptable, realistic and easy to implement within the proposed framework of the protocol. This has the potential to significantly increase the chances for adequate and genuine political accommodation ahead of the general elections and to bring stability to Sudan. The additional protocol should also review the security arrangement for the



post-referendum period, the mandate of the UN mission in Sudan (UNMIS) and the mandate of the Assessment and Evaluation Commission of the CPA and establish a monitoring mechanism on the preparation of elections and the referendum. After the referendum, it will also be necessary to build in enough time to manage and secure the implementation of other provisions of the Darfur peace process.

In the event that the NCP agrees to commit to an additional protocol of the CPA, the international donor community should commit to support an extensive rehabilitation and reconstruction programme in the South of Sudan. The EU should encourage the donor community to support, via the GNU, South Sudan institutional capacities in all vital sectors as well as in the Nuba Mountains, Abyei and the Blue Nile. This will empower South Sudan and the transitional areas to play an important role in the coming period, which would lead to a stronger united Sudan, or in case of separation a stronger South Sudan, as well as stable transitional areas;

If President al-Bashir accepts this proposal and shows his willingness to commit to such a solution and to ensure stability in the run-up to the elections, the abovementioned members of the international community could agree to invoke Article 16 in the Rome Statute, to defer the International Criminal Court (ICC) cases against al-Bashir, Ahmed Haroun and the Darfur rebel commanders for a period ending October 2010, provided that al-Bashir relinquishes his nomination to run for the presidency. Whether or not this should lead to an indefinite deferral would need to be decided at a later stage.

### **Recommendations to the EU**

The troika members, China, the AU and IGAD, must convene meetings with the NCP and SPLM to negotiate an additional protocol to the CPA, within a set timeframe. The length of this new post-referendum transition should probably be equivalent to a new full parliamentary term – four years.

The additional protocol must also set up a negotiation framework to discuss and plan pending post-referendum co-existence scenarios and arrangements, as well as to include monitoring mechanisms for implementation.

The EU should spearhead efforts among the donor community to support, via the GNU, South Sudan institutional capacities in all important areas as well as in the Nuba Mountains, the Blue Nile and Abyei.

The EU should also support an extensive programme of repatriation of IDPs in Darfur, once a cessation of hostilities has been agreed by the parties through the Doha negotiations, and support a joint UN-AU mission in Darfur (UNAMID) in efforts to ensure that proper elections will be held throughout Darfur.

## II. OUTSIDE AND BEYOND THE CPA: SCENARIOS

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### DARFUR AND WHOLE-OF-SUDAN SCENARIOS

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Since 2007, the Sudan People's Liberation Movement (SPLM) has prioritised self-determination over unity with Northern Sudan, and its solidarity with the Darfuri insurgency has loosened. Consequently, Darfur increasingly has become an issue between Khartoum and the international community, rather than a question discussed on the national agenda. What can we expect for Darfur after 2011? To what extent are the destinies of Darfur and Southern Sudan interlinked? This chapter argues that there is little chance to reach a peace deal on Darfur before Sudan's 2010 elections. Therefore, the status of Darfur most probably will be negotiated within the framework of a new Northern Sudan, with the SPLM being a foreign observer. However, successful CPA implementation requires that the 2010 elections both include Darfurians and give legitimacy to self-determination in the South.

#### **Darfur's political landscape: fragmented and volatile**

The conflict and political dynamics in Darfur have changed considerably in the last few years. The Sudan Liberation Movement and Army (SLM) had entered the Darfur peace talks with two main factions only, but the signing of the Darfur Peace Agreement (DPA) in May 2006 accelerated the SLM's splintering. The second rebel movement, the Justice and Equality Movement (JEM) – then militarily insignificant but politically savvy – gained considerable military might by lending support to the government of Idris Deby in neighboring Chad as it came under repeated attacks by Khartoum-backed Chadian rebels. In the second half of 2006, the government used the signatory SLM faction, led by Minni Minawi, to attack other SLM factions and the JEM, leading to a considerable increase in infighting among rebels and, ultimately, undermining the strength and political credibility of several leading factions. As government troops and militia increasingly focused on defending large urban centres and garrison towns, armed banditry, warlordism, and local tribal clashes dramatically increased, creating generalised insecurity and limiting humanitarian access to the victims of the conflict.

Today, the rebel movements represent varying degrees of threat to the government. The JEM is the predominant military threat as it is the best armed and most mobile, but it is also the one that poses the greatest threat to the ruling National Congress Party (NCP) at the political level because of its links to the rival faction of Sudan's Islamist movement, the Popular Congress, led by Hassan al-Turabi. The JEM has an ambitious national agenda and the declared objective of unseating the NCP.

However, the JEM does not control much territory occupied by large population groups in Darfur itself and is generally viewed with suspicion by the locals as belonging to the camp of the Islamists. The SLM under the leadership of Abdel Wahid Mohamed Nur has considerable political clout in the internally displaced persons' (IDP) camps and controls large population groups in the heartland of the rebellion in Jebel Marra, but has only defensive capabilities. Other SLM factions have varying degrees of control over land and populations, but only a few have credible offensive and defensive capabilities. SLA factions are almost unanimous in distrusting the JEM, accusing it of using the Darfur cause to realise its own national ambitions. The JEM's claims that it alone had the right to represent Darfur's people, as well as its repeated reminders to the government that it alone had the clout to 'impose peace on the ground,' continue to fuel the antagonism between the SLM splinter groups and the JEM.

Repeated attempts have faltered to reunify the SLM factions or have them agree on a joint platform for eventual negotiations with the government. US Special Envoy to Sudan Scott Gration emerged by mid-2009 as a driving force behind SLM reunification efforts involving regional actors such as Egypt, Libya and Ethiopia as a prerequisite for successful negotiations. The SPLM had by then abandoned similar attempts.

Darfurian society has become deeply polarised. There is a fundamental tension between what the rebels claim to represent – the war-affected people – and the widespread perception that the rebels harbour an agenda to rule Darfur and to unseat the NCP regime in Khartoum. As a result, spokesmen for Darfurian Arab groups that are affiliated with the regime have become increasingly radicalised in their attitudes. These groups now demand greater representation in regional and national power for themselves, and not just for the region as a whole, and they reject the unification of the region. The Darfur conflict therefore has seriously damaged the region's social fabric.

In the six years since they cropped up, the sprawling camps for the displaced – several sheltering tens of thousands of war victims – have developed their own socio-political realities. A new generation of leadership has emerged within the camps, often under the mantle of traditional titles such as Sheikhs and Umdas, but at times leaders arise solely in recognition of their ability to organise the community in the camps and to represent its interests before representatives of the humanitarian community and peacekeepers. The younger generation growing up in the camps is embittered and increasingly radicalised. The predicament of the IDPs has inevitably disposed them to totally distrust the government and its police and to consider the 'international community' as a source of protection, survival, and justice. Because the camps thus offer fertile recruitment grounds for the rebel movements, the government tends to see them as a major security threat. Government hardliners therefore find the temptation to dismantle the camps by force almost irresistible; other officials would prefer to take a more hands-off approach and allow the protracted humanitarian emergency to transform the IDP population gradually into resigned

and alienated masses who eventually join the ranks of the urban destitute while allies of the regime take over their lands.

To compensate for the increasing lack of unity and scattering of direction among the rebel factions, a new Darfur public opinion is emerging, articulated by civil society groups, traditional leaders, women's organisations, and other opinion leaders including prominent Darfuri journalists, lawyers, writers, and musicians. The Darfur movements tend to see this alternative leadership as a natural political ally, while the government's selective obstruction of civil society efforts to organise and to lead shows its unwillingness to deal with a force it cannot appropriate or control. The Darfuri alternate leadership have implemented several initiatives – such as the 'Mandate Darfur' conference that was derailed by government obstruction of delegates' travel or the negotiations on a white paper for the peace process in which dozens of Darfuri groups participated for months in Sudan – that have rather remarkably failed to influence the official peace process to date. These failed initiatives, while a dramatic anticlimax, nonetheless illustrate the growing influence of alternative political forces in Darfur. The dynamic civil society sector among Darfuri exiled communities in the Middle East, Europe, and North America is also significantly contributing to the non-official dialogue and helping build consensus among Darfurians.

This burgeoning civil society dialogue poses a genuine challenge to the joint AU/UN mediation, which must broaden the negotiations to include civil society forces, leaders of the IDPs, and of other communities not represented in the political process (such as Arab groups). This recommendation was also made by the African Union High-Level Panel on Darfur (AUPD, a.k.a the Mbeki Panel) in its October 2009 report. There is evidently considerable room for improvement in coordination both among the mediation processes, and also between these processes and Darfuri civil society's self-driven initiatives. The peace talks in Abuja failed to be inclusive in any significant way, to the serious detriment of the DPA.

### **SPLM-Darfur relations**

The SPLM has a long history of involvement in Darfur. After Dawood Yahia Bolad in the early 1990s,<sup>1</sup> those who launched the SLM insurgency in Darfur in 2002 were greatly inspired by the New Sudan ideology of the SPLM leader John Garang. The SPLM is known to have assisted the SLM train and arm its first recruits. However, as the North-South peace process accelerated, the SPLM gradually phased out its direct military support to the Darfurians, though it remained politically close to the SLM and its multiple splinter factions following the signing of the DPA in 2006. Understandably, the SPLM continue to view the JEM with suspicion because of its founders' Islamist background.

1. A Darfuri and formerly leading member of the National Islamic Front (NIF) who broke away and established a Darfuri section of the SPLA/M in 1992. However, he was quickly arrested and executed.

Going forward, the SPLM has to reconcile and overcome the tension between its ideological and political support for Darfur's struggles against the hegemonic centre on the one hand, and on the other, the strong scepticism harboured by many in the South who recall the role of Darfurians as the foot soldiers and *Mujahideen* of Khartoum during the southern war in the 1990s and wonder why the SPLM should now invest in their cause. Many southerners are also resentful that the West has decided to focus so much attention on the Darfur crisis, while it comparatively ignored the southern war, which never even made it onto the UN Security Council's agendas. The SPLM has now prioritised self-determination over unity and solidarity with the Darfurians. However, the fate of the South as an independent nation may inspire or prefigure future political demands from Darfuri movements. By failing to make unity attractive for Southerners, Khartoum is also seriously alienating Darfurians, with the risk that this will lead them to harden their demands for real autonomy of the region.

### Sequencing for Darfur peace processes and 2010 elections

It is highly unlikely that a comprehensive and lasting solution for the Darfur crisis will be reached before 2010 elections. This is unfortunately the case despite the robust AUPD process, the reinvigorated peace talks that it has spurred, several promising proposals from the AU/UN mediation in Doha, and the United States' escalated involvement in resolving the crisis. First, voting is scheduled to take place before an agreement feasibly could be reached on the future status of the region – deciding whether Darfur would remain in its current configuration as three states (with three state legislative assemblies), or be returned to its historic status of one state. Should Darfur revert to one state, it would fulfil a key demand of the movements but it also would drastically reduce the legislative and executive positions available for sharing among the different movements at the state level, and would also reduce their representation at the national level.

Moreover, a particularly worrying development since 2006 has been the localised violence in South Darfur, mostly among tribes of Arabs descent, that is a spillover of the larger conflict. This unrest reveals the government's lack of control over its own allied militias and security units, and so far it has received little international attention. Moreover, in cases where local tribal reconciliation processes have had limited success, it has yet to make it onto the agendas of the peace process. All this ultimately means that, should the South secede in January 2011, future Darfur status negotiations may well occur in the context of a new Northern Sudan, while the South acts only as a foreign observer.

In the current circumstances, the Darfuri political scene is too fragmented and volatile to allow for the emergence of a force strong enough to unite with the SPLM and modify the balance of power during the 2010 elections against the NCP. Even if there were to be a renegotiation of a new CPA that more effectively includes Darfur, the current degree of fragmentation among the Darfuri political movements would make an

alliance between them and the SPLM unlikely, thus rendering unity hardly attractive to the SPLM. The Darfuri armed movements would require, at minimum, two years' post-peace agreement to develop themselves as political parties. This is, of course, incompatible with the election timetable.

Furthermore, a major hurdle for elections in Darfur is the risk of likely disenfranchisement of the IDP population of 2.7 million, who would be reluctant to take part in the voter registration process outside their home areas from which they were forcibly expelled. Widespread irregularities observed in the first week of registration in November, with the ruling National Congress Party trucking its supporters to registration centres and intimidating others would translate into greater tensions in Darfur. Attempts to manipulate registration and voting are likely to incite some hardline factions to attempt violent disruption of the process. Other population pockets residing in rebel-held and other inaccessible areas would also risk exclusion.

The proposal to hold only partial elections in 2010 in the region has been put forward, but this option would have serious consequences. First, it would undermine the legitimacy of the outcome of the national elections and thus represent a serious setback for CPA implementation. Second, it likely would also strengthen Darfuri support for unilateral Southern self-determination. Third, partial elections risk triggering angry reactions from IDP populations and probable reprisals from security agencies or their allied militias. Such incidents would represent a serious setback for the peace process.

### **Post-2011 challenges for Darfur and the South**

Darfur's situation – particularly as it relates to the preparation of elections – is not only helping to shape the overall outcome of the self-determination referendum in South Sudan, but it conversely is bound to be affected by the outcome of the referendum as well.

Unity of Sudan would allow more resources from the centre to be dedicated to Darfur and its peace processes. However, it would also simultaneously strengthen Khartoum's hand in rejecting the increasingly radicalised Darfur movements' demands for a greater share of power. In case of peaceful secession, border issues between South Darfur and Southern Sudan would need to be addressed urgently to reach local level agreements for access to water and grazing lands in the transitional zone between Arab nomads of south Darfur and Kordofan in the new southern state. If secession were to lead to renewed conflicts between the North and the South, Khartoum forces and militias will be engaged primarily in the South, potentially encouraging Darfur rebels to capitalise on their distraction and press military advantage.

## Recommendations to the EU

In the short term, the EU and the international community need to push for the holding of elections in Darfur by insisting on the fair participation of all Darfuris and IDPs while contributing to humanitarian relief and pressing the parties to commit to the protection of civilians and humanitarian workers in the region.

If, as it seems likely, the Darfur peace process reaches no substantial resolution before the self-determination referendum in the South, the EU needs to recalibrate its perspective to anticipate new features of the Darfur peace process within the framework of a new Northern Sudan, while closely monitoring relations between potentially independent Southern Sudan and Darfur.

## THE NORTHERN ELITE, REGIME SCENARIOS AND THE ICC

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### Dynamics of change within the NIF/NCP since 1989

The June 1989 *coup* in Sudan was hardly a political revolution, despite its aspirations to be so: only a small section of the army was involved and its civilian backbone was essentially constituted by a minor player in the political arena, the National Islamic Front (NIF). Acknowledgment of this fact does not mean to deny the massive changes that resulted from the coercive measures introduced by the regime from 1989 onwards. Those policies affected the structure of the state apparatus, including its security and military sector, the economic elites and Sudanese society at large. Deep social and economic transformations induced by the new regime were already underway when oil production started. The availability of new revenues from the oil boom facilitated even more already ongoing societal changes, providing more political and economic resources to strengthen certain social groups and consolidate the hegemony of the regime. This coincided with the time when it needed to engage the international community to address the North-South problem.

With hindsight, it seems clear that two events played a strategic role in scaling back the ambitions of Sudanese rulers. The failed attempt to assassinate the Egyptian President Hosni Mubarak in June 1995 and its international consequences demonstrated that if Khartoum wanted to continue its support to radical Islamist groups on its own soil, it would not be able to hang onto all its friends in the international community and the very survival of the regime might be in jeopardy. This crisis was sparked off by a debate within the ruling elite that produced another strategic outcome: the demotion in December 1999, followed by the imprisonment in February 2001, of Hassan al-Tourabi, who had been seen as the mastermind of the regime.

This period was also marked by a successful deal to start oil exploitation. The government was thus anticipating an oil bonanza at the very moment when its political future appeared to be uncertain. As a consequence, several features came to characterise the post-1999 period in Sudanese politics, expressing both the outcome of certain policies from the early days of the regime and an adaptation to the new constraints.

The military dimension of the regime was reasserted in many ways, the most visible being the seats provided to the military on the boards of leading industrial and financial Sudanese firms. This development eventually changed the balance of power between President al-Bashir and his deputy, Ali Osman Mohamed Taha. It also dramatically affected the response of the military and security apparatuses in the Darfur crisis after the attack on al-Fasher airport in April 2003, as they were very hostile to the security arrangement reached in the talks with the Sudan People's Liberation Movement (SPLM).



This increased the influence enjoyed by civilian cadres who had links with the security apparatus or were politically connected with high-ranking officials of the late Nimeyri period (1977-1985). To a large extent, these two dynamics were congruent with the development of a sprawling security apparatus, the ascendancy of social conservatism, and an attempt by the government to gain a monopoly on the economic realm, notably by imposing affiliated local counterparts on foreign firms and by controlling the financial sector and the import/export business.

The collapse of the Islamic project following the removal from office of Hassan al-Tourabi in December 1999 had several consequences. First, and beyond the marginalisation of any strong Islamist ideology in Sudan, the Islamist political arena was reconfigured. It opened its door to several previously excluded movements (Muslim Brothers, Wahhabi) that had formerly opposed Hassan al-Tourabi. Second, because it also deepened the lack of credibility of any regime-driven Islamic agenda, it increasingly gave rise to a cluster of militant groups inclined towards Salafi-Jihadi ideology. Today what is left of the genuine Islamist element of this regime tends to rally behind Ghazi Salah ed-Din, one of the few leaders who did not give up his ideological credentials, was neither close to the security apparatus nor involved in dubious economic deals, and who aspires to a possible redefinition of an Islamic agenda for Sudan.

Clientelist networks within the ruling party, mostly organised along the lines of ethnic affiliations, became more visible and prominent. After 1977, the Islamists had been able to recruit in different regions and not only among the core Arab tribes. However, the scission in the leadership in 1999 and the reassertion of those ethnic networks narrowed the Islamists' potential constituency. It also convinced some of their ideologists such as a former Minister of Finance, Abdirahim Hamdi, to focus on the useful 'Arab triangle' within (North) Sudan, without channeling state investments elsewhere. Today, Sudanese politics is factionalised and strategic thinkers in most political parties have little influence on decision-makers.

Another major difference with the Nimeyri era was the rather less polarised international arena. The 'Look East' policy undertaken very early by Khartoum meant that by the end of the 1990s, Sudan had secured warm relations with China, Malaysia and, over the following years, with India and Russia, as well as reconciliation with conservative Gulf monarchies and Egypt. While there is a widely-shared perception in the West that Khartoum is isolated, the Sudanese regime sees itself as able to play different diplomatic cards within the Arab League, the African Union and the wider international community. A significant section of the National Congress Party (NCP) led by Nafi Ali Nafi shares the view that this policy is a viable alternative to dealing with the West.

## Impact of the ICC on the ruling elites

The internal NCP debate on the International Criminal Court (ICC) takes place in a context whose details are worth briefly recapitulating here. First, with regard to the war in the South, the ruling elites, like the population at large in the capital, seek to downplay the actual reality and magnitude of the conflict in Darfur. While Western Sudan is not perceived as being the same as South Sudan (for one thing it is a Muslim region), it is not regarded as being that different either. A second aspect is the paranoid discourse on the international community. For both good and bad reasons, the regime has adopted a largely sceptical attitude to the discourses and stances of the West. Many Northern Sudanese are convinced that Western countries bear their share of responsibility for what has happened in Darfur. This attitude is increased by the well-publicised support to Sudan provided by China, Russia and others. Third, the ruling elites may feel ambivalent about the way in which the Darfur conflict and the CPA have been managed. Many believe that the peace agreement was too generous towards a weak SPLM. Yet, the Sudanese regime's continuing endorsement of and compliance with the CPA is a condition for normalising relations with the US and Western countries. Most feel that the government is fundamentally right on two issues: (i) the view that conflicts in Darfur and South Sudan are primarily tribal in nature; (ii) the idea that beneath the political discourse of insurgents' leaders lie deeper tribal causes. Concerning Darfur in particular, some – including Sudanese presidential advisor Ghazi Salah ed-Din before he took over the Darfur dossier – blamed the Security Services more than the military since the former were the main players. Such criticism aims at dissociating a large part of the ruling elites from the cluster of security officials who made decisions without broad consultations and is designed to contain the influence of the security apparatus in other areas, such as the economic realm or local politics.

The ICC's indictment of al-Bashir is therefore perceived and portrayed in several ways. It is understood as an expression of an international competition between Asian countries and the West. Targeting Omar al-Bashir is seen as a simple way of singling out China's policies in Africa and restraining Beijing's influence. It is analysed as part of the war waged by the international community against Sudan because of resentment of the diplomatic autonomy that the regime enjoys thanks to Sudan's economic success. International prosecution is also seen as a tool for Western States to promote their own supporters within the regime and make sure that the latter implement the CPA in accordance with their directives.

The ICC indictment should also be seen as paradoxically affording an opportunity to challenge the current balance of power between the various NCP factions. Some behind the second vice-president, Ali Osman Mohamed Taha, see it as an opportunity for normalising the regime and securing their political and economic positions. In the view of others, the NCP should move towards a kind of Egyptian-style regime characterised by the following features: the military would be the backbone of the State and Islamist credentials would be reduced to a minimum; a strategic alliance

would be built with conservative Arab and Asian States, in contrast to distant working relations cultivated with the West. Others advocate staunch opposition to the West and are betting on the 'Look East' policy.

The very notion of impunity is therefore hardly addressed and plays a very marginal role in the internal debates. Statements issued by the US Special Envoy regarding possible reconciliation with Washington reminded people of the political cost that would be incurred by such a *rapprochement*. Since the impunity of certain members of the leadership is one of the impediments to a more conciliatory approach from the US, it has thus partly re-emerged in the debate. In that sense, the American approach seems to have yielded more results than that of European countries who are still perceived as being less sympathetic to Sudan.

### Possible scenarios up to 2011

The first challenge to be addressed by the ruling elite is the 2010 elections. They have become important because they provide the only means to reassert the legitimacy of Omar al-Bashir after the ICC decision. Moreover, a successful election result could also be interpreted as a plebiscite for NCP policies on Darfur over the last six years. The main difficulties for the NCP in that scenario are that elections should imperatively take place, they should be free and fair enough to ensure that their result is accepted by the international community and they should not significantly promote any opposition elements. Although a part of the NCP is ready to take the risk, a majority does not understand why elections should be conducted in that manner as there is a general feeling that they do not provide a solution to any problems: either the secession of the South or a political settlement for Darfur.

If elections are held, it is very likely that Omar al-Bashir will get a new mandate. The international debate on the elections might focus on the legitimacy of the electoral procedures. However, internally, the murky debate will not change much. More trouble rather than less may be expected. From a NCP perspective, no substantive questions on CPA and Darfur are attached to the 2010 elections: their likely result will not constitute a major breakthrough in itself. Therefore, one can foresee Sudanese politics continuing to evolve in the same way as over the last two years: a slow process of deterioration in the North with localised crises in transition areas; the continuation of a stalemate in Darfur; a more steady process of deterioration in the South; and bitter negotiations between the Government of Sudan (GOS) and the Government of Southern Sudan (GOSS), with the international community in a firefighting role.

Faced with such dynamics in the Northern elite, the EU should assess past and present challenges and make a concerted effort to emerge as a leading political actor in the mediations on Darfur and on North-South tensions. One of the difficulties in this respect will be to offer a clear and comprehensive vision on Sudan. The long-term aim of EU policies should be to seek for a more democratic Sudan at peace with itself.

## Recommendations to the EU

The EU should make particular efforts to reach out to other political actors that could act as a counterweight to the NCP in the north outside Khartoum, apart from the insurgent groups in Darfur, the SPLM and the NCP.

More significant input could be focused on providing more space for traditional or small civilian parties. In the short term, more attention should thus be paid to opening a political space even before the electoral period gets underway. Getting a European Union presence on the ground to pave the way for the elections, support all major parties in preparing their campaign and monitor the freedom of speech and the media should be a priority.

The EU should open a frank discussion on the various regimes of sanctions applied to Sudan. It should look for a more creative approach linking positive initiatives and more effective (for instance, individually targeted) sanctions in case the worst-case scenario comes to pass.

## III. DEALING WITH THE FUTURE OF THE ECONOMY

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### MACROECONOMIC TRENDS AND SCENARIOS FOR POST-REFERENDUM SUDAN

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#### Why conflict prevention in Sudan is relevant now and will be in the future

In comparative perspective, Sudan's macro performance has been good over the past two decades. While growing more slowly than the economies of Indonesia (population: 240 million) and Malaysia (population: 25 million), Sudan (population: 39 million) has grown more rapidly than comparable large African countries such as Kenya (population: 30 million) and Nigeria (population: 130 million). The military regime that took power in 1989, and which is still led by President Omar al-Bashir, restored basic macroeconomic stability to the northern part of the country by the mid-1990s, successfully implemented a military strategy of controlling, developing, and realising profits from the oil fields in Southern Sudan, and opened the central 'investment triangle' of Kosti-Khartoum-Wad Medani to foreign investment. Sudan's GDP *per capita*, expressed in real purchasing power parity (PPP) dollars, grew at a rate of 5.7 percent per year over the 1990-2007 period, doubling from US\$929 to US\$2,275. But even with spectacular Asian-style 8 percent growth for the next 10 years, Sudan would still only have GDP *per capita* of around US\$4,000 in 2020, while countries like Malaysia would likely join the ranks of developed countries with GDP *per capita* of \$40,000.

Sudan's good macro performance notwithstanding, the motivation for international assistance to enhance the well-being of large swathes of the Sudanese population, and of international diplomacy and policy to prevent recurrence of civil conflict, will remain valid for decades. Sudan's low level of income *per capita* means the risk of violence remains high. One study has suggested that when modelling the determinants of the onset of civil war we should take into account an intermediate phase, where an incumbent regime mobilises repression in order to forestall a possible insurgency.<sup>1</sup> The study shows strong correlations between income *per capita* and movement up the gradient of civil war to repression to peace. Sudan's past two decades of growth therefore give grounds for some optimism, tempered by the finding that weather shocks (floods and heatwaves) are strongly correlated with movements down the gradient towards repression and civil war. The implications of this study are similar

1. Timothy Besley and Torsten Persson, 'Repression or Civil War?', *American Economic Review*, vol. 99, no. 2, May 2009, pp. 292-97.

then to those of another study whose authors find that rainfall shortfalls acting as negative shocks to incomes are associated with the onset of civil war.<sup>2</sup> On the basis of these findings, some researchers advocate for an ‘insurance against shocks’ fund for places like Sudan.

The long-term need for attention to conflict prevention and resolution is especially valid as Sudan exhibits high and possibly growing income inequality, so those below the poverty line are probably experiencing relatively slower improvements in well-being than suggested by looking at averages.<sup>3</sup> Other security, political and environmental factors indicate risks for conflicts as elaborated elsewhere in this report and other scenarios exercises.<sup>4</sup> Moreover, as the population continues to grow rapidly and hence is increasingly skewed towards youth, political institutions continue to favour investment in the centre rather than the peripheries, and global warming may lead to sharp adverse climate change.

### Relevant macroeconomic trends

Three changing dimensions of the economic structure of Sudan are especially relevant for the future. They are: (i) oil; (ii) urbanisation; and (iii) pastoralism.

Rapid economic growth in Sudan over the past decade has been due to oil production and export, which accounted for perhaps 15 percent of GDP in 2008 (\$10 billion in oil exports and \$60 billion in GDP),<sup>5</sup> and more than 75 percent of the government budget (which is about 20 percent of GDP). Prospects for continued oil revenues are very positive. The decline in oil prices in late 2008 was short-lived in part because the global recession seemed to have bottomed out. So projections of oil exports of 500,000 barrels per day and prices of \$75 per barrel seem reasonable, and these would generate total revenues of approximately \$14 billion annually for division between the oil companies, the Government of Sudan (GOS), The Government of Southern Sudan (GOSS) and the oil-producing states. Proven oil reserves appear to be of the order of 5 billion bbl, enabling production to continue at the 500,000 bbl per day for several decades. The oil sector thus remains the driving force behind rapid economic growth. The political economy of oil exporters remains the subject of considerable debate, and there is little consensus on what measures might be taken to avoid what is known as the ‘resource curse.’ Oil revenues may create incentives for investments

2. Edward Miguel, Shanker Satyanath and Ernest Sergenti, ‘Economic Shocks and Civil Conflict: An Instrumental Variables Approach’, *Journal of Political Economy*, vol. 112, no. 4, 2004, pp.725-53.

3. Ali Abdel Gadir Ali and Ibrahim A. Elbadawi, ‘Explaining Sudan’s Economic Growth Performance’, AERC Collaborative Research Project on Explaining Africa’s Growth Performance, mimeo paper, 2002; Hisham Mohamed Hassan Ali, ‘An Analysis of Growth and Inequality in Sudan: Cointegration and Causality Evidence (1956 - 2003)’, May 2008. Available online at: <http://ssrn.com/abstract=1144446>.

4. Jaïr vand der Lijn, ‘Sudan 2012,- Scenarios for the future’, IKV, Pax Christi, Cordaid, September 2009. Available online at [http://www.clingendael.nl/publications/2009/20090914\\_cscsp\\_lijn.pdf](http://www.clingendael.nl/publications/2009/20090914_cscsp_lijn.pdf).

5. See: International Monetary Fund, Sudan *Country Report*, no. 09/218, July 2009.

that yield little improvements in productivity in other sectors of the economy, and may also constitute motivation for rent-seeking and insurgencies.

Urbanisation continues at a rapid pace in all the major cities of Sudan and has been given extra impetus by the displacement of approximately 2.5 million persons in Darfur, who are resettled in camps that are either evolving or being incorporated into urban centres. There are several consequences to urbanisation. First, in the absence of broad legitimacy, regimes have to manage potential rapid-forming social movements. The experience of several countries shows that new technologies of mobile messaging and large-scale underemployment of youth can generate large-scale anti-regime mobilisations. Second, urbanisation shifts the incentives of political elites to increasingly reward competent bureaucratic management of cities (i.e. professionals) and urbanisation itself generates and is stimulated by rising incomes in a self-reinforcing process of specialisation into small-scale service entrepreneurs, larger-scale industrial enterprises, and professionals serving a large market. Urbanisation thus creates a more prosperous middle-class with a large stake in political stability and more predictable and less burdensome extraction of rents by the regime. Third, urbanisation makes it more difficult for hinterland-based insurgency groups to capture the seat of government, making *coups d'état* the more salient danger for the regime (as demonstrated by the attack on Omdurman in May 2008). In short, competent and creative management of new forms of social protest arising over new problems (breakdowns of urban services) becomes an essential component of strategies to prevent conflict. This means that the major focus of technical assistance after 2011 issues are resolved should be technical assistance in urban planning, which will be much more important than agriculture, in terms of shorter-term impact on conflict prevention.

Pastoralism is the third key trend area of the macroeconomy, not because it is especially dynamic, but rather because the nature of pastoralist livelihood involves low levels of governmentality. Pastoralists are highly autonomous and move quickly, posing constant threats to both sedentary populations and government. Well-managed, it is likely that livestock herding yields considerably higher profitability than rainfed agriculture over much of the territory of Sudan. This is because demand for meat and hides will continue to rise rapidly with urbanisation (within Sudan) and growing world incomes (in the Middle East and Asia) while prices of basic rainfed crops (sorghum and millet) will likely fall relative to livestock as developed country agriculture will most probably continue to generate higher yields. There will thus be continued pressure by wealthier pastoralists to maintain open ranges and to establish more permanent watering structures. Unless there is a return to the high rainfall period of the 1960s, these trends are likely to exacerbate ecological degradation around population centres and thus trigger conflict. The response by government to these conflicts determines whether they escalate or are settled in ways that generate improvements in well-being. Following existing best practice in Sahel identified by

a number of excellent reports on the pastoralist economy in Sudan,<sup>6</sup> the EU, in the long term, should try to engage Sudanese communities and authorities more systematically to support them in promoting livestock sectors and mitigating conflict through inclusive and legitimate processes.

### Four scenarios for the 2011 period and macroeconomic trends

Three important macroeconomic trends were discussed above: continued growth of oil revenues; continued rapid urbanisation; and continued incentives for expansion of pastoralism. These three trends will shape the conflict and policy scenarios for the period leading up to and after the referendum, as shown in the table below.

| Forced unity  | Forced secession   | Agreed unity  | Agreed secession   |
|---|--|---|--|
| Urbanisation  |  |   |  |
| Urbanisation process in South will once again be halted, as towns will become occupied by garrisons from North. New 'displaced persons' towns will arise on the borders (e.g. Kakuma), this time probably much more politicised (DR Congo-type scenario). | Unpredictable outcome for Khartoum, which might experience mass expulsion of civilians as northern regime, losing secession war, plays an 'outsider' card to placate urban constituencies (Cote d'Ivoire-type scenario). | Even faster growth of Khartoum, and also 'southern' towns in the north, like Kosti. Megalopolis of Kosti-Medani-Khartoum has people, power and water, and so will be primed for light industrial development. | Very difficult issue of status of southerners in Khartoum (citizenship, property) will have to be resolved |

6. Salahel Din El Shazli, Farah Hassan Adam, and Imadel Din Bashier Adam, 'Share The Land Or Part The Nation: The Pastoral Land Tenure System in Sudan,' mimeo paper, United Nations Development Programme in Sudan, 2008.



| Forced unity  | Forced secession  | Agreed unity  | Agreed secession  |
|---|---|---|---|
| Oil   |   |   |   |
| <p>Embargo on Sudanese oil would become a very salient political issue, and if China blocks an embargo then there would be a very strong divestment movement. Oil installations would be targeted by SPLA.</p>  | <p>SPLA might borrow against future oil revenues and shut down pipeline through north and build pipeline through Kenya. North might target southern pipeline. Iraq outcome very likely – each side pumps and oil delivered through trucks to Kenya and Port Sudan. Air power of South critical.</p> | <p>If SPLM forges alliance with Umma/DUP, then new political economy of corruption begins, with NCP insiders looting the state and then using insider information to continue to leverage new elites. (continuing road to ‘Nigeria-isation’ with possible emergence of local civic resistance).</p> | <p>Oil wealth-sharing will have to become more transparent, and become part of a broader negotiation over distribution of shared wealth (public corporations, public infrastructure, debt, reserves, etc.)</p>  |
| Pastoralism   |   |   |   |
| <p>Since North defeats South, more than likely with assistance of irregular pastoralist-based militias (<i>mura-haleen</i>), empowered pastoralists will generate population displacement and humanitarian crises (1998 Bahr al-Ghazal famine-type scenario).</p> | <p>Abyei and Blue Nile will likely remain conflict zones (Ethiopia-Eritrea border-type scenario) where armed pastoralist militias fight low-intensity small arms skirmishes.</p>  | <p>Pressure will mount on National Land Commission and Southern Land Commission to clarify pastoralist access to grazing as farming and urbanisation continue expanding.</p>  | <p>Unique cross-border movement will have to be negotiated. Votes of border communities will likely depend on details of negotiated settlement. If referendum proceeds with no clear communication of settlement, armed pastoralist groups in North will likely conduct pre-emptive land grab to establish demarcation further south.</p> |

## Key economic issues to negotiate with separation

At the heart of any negotiations over divisions of assets at the time of separation will be the credibility of the agreements. The CPA was intended to be largely self-enforcing, since both parties had an interest in ensuring the peace. But with separation, common interest rapidly declines, and pre-separation commitment by both parties cannot be counted on to ensure follow-through on division and transfer of assets and liabilities. Once the two parties become sovereign entities, their willingness to abide by earlier agreements will presumably decline rapidly, and their acceptance of third-party arbitration or enforcement becomes less likely.

One of the central issues leading up to separation will be finishing the work of the two parties in negotiating the wealth-sharing protocol of the CPA. The CPA deliberately left vague the question of ownership of assets, even for citizens, let alone state entities. But with separation likely, there is a pressing need to begin clarifying which assets might be divisible for the two resulting states. There are a host of other ‘transborder’ economic sectors that will be negotiated in the event of separations. These include: water, transport, telecommunications networks, remittances, currency, and debt.

Negotiators might agree that many domains of possible negotiation will be off-limits, and agree to not even calculate the magnitude of the assets and liabilities at issue. However it is hard to think through such a decision without engaging in at least ‘back-of-the-envelope calculations’. For example, GOS owns about 35 percent of Kenana Sugar Corporation, which annually produces more than 400,000 metric tons of sugar. At \$300 per ton, and a profit margin of 25 percent, this implies a profit stream of \$30 million per year,<sup>7</sup> or a present value of almost \$300 million, of which 35 percent would be \$100 million. Sharing the government-owned stakes in the banking sector (including the Bank of Sudan) is another example. Of course, it should be recognised that many state enterprises in Sudan are unprofitable, and so division of their liabilities would then need to be included. Finally, the thorny issue of external government guaranteed liabilities, possibly of the order of \$30 billion, would have to be negotiated.

The parties to the CPA therefore must inform and advise the Sudanese public through an open and inclusive process on the basic principles that might govern a division of assets and liabilities of the central government. Given the failure of the arbitration-style mechanisms of the CPA to deliver timely solutions to these issues of division, the parties might consider promoting the idea of allowing outside agencies to devise incentive mechanisms that would ensure quick and effective divisions.

There are many such mechanisms that might be contemplated. For example, a pre-announced schedule of possible bundled asset divisions and side-payments could be

7. Exactly that announced for 2007 at <http://www.sucree-ethique.org/Kenana-Sugar-Company-Continuous>, at an exchange rate of 200 dinars to the dollar.

envisioned. The assets of 40 state companies and other entities might be divided a certain way, certain valuations for the assets might be suggested as starting points, and certain sums of ‘trading money’ might be made available. The parties can then negotiate or trade to an asset allocation that favours them. On the day the ‘negotiation’ begins, the initial division of assets is presented and becomes available for both sides to negotiate over mutually agreed solutions. The specified allocation is the initial bargaining point (that is, negotiations are over how to split the available multi-dimensional pie when the pie has been divided a certain way.) If consensus is reached, the negotiation is over. If consensus is not reached in a pre-specified time, the previous deal is no longer available, and discussion moves to the next possible deal, where the overall ‘pie’ might be smaller. Mechanisms may be used to create commitment, such as complex contracts that deliver funds from third parties if deals are made.

Furthermore there is considerable training that can be carried out to prepare both sides for participation in complex auctions and other kinds of mechanisms designed to reveal values of assets and then divide assets.<sup>8</sup> What is the best way to prepare for this kind of mechanism? Both sides need to begin practising in experimental games – public goods, ultimatum and dictator games. Both sides need to start constructing plausible divisions. Mediators might usefully let parties themselves pick areas to begin work on, corresponding to the areas that they know best. Mechanisms can be applied locally with regard to local issues, such as, for instance, grazing rights in Jonglei.

## Recommendations to the EU

### In the next few months:

Appoint a team of experts to make concrete proposals before the 2010 elections on the division and transfer of state assets and in particular: put forward a proposal for an internationally supported negotiation framework which would include training of the parties, external incentives, with a negotiation programme, schedule and methodology.

### In the long term:

Consider contributing to an ‘insurance against shocks’ fund for Sudan to prevent civil war and conflict outbreaks linked to weather shocks.

8. For more details on this topic, see: Nathan Richardson, ‘Breaking up Doesn’t Have to Be So Hard: Default Rules for Partition and Secession’, *Chicago Journal of International Law*, vol. 9, no. 2, p. 685, 2008-2009; Paul Williams and Jennifer Harris, ‘State Succession to Debts and Assets: The Modern Law and Policy’, *Harvard International Law Journal*, vol. 42, no. 2, Summer 2001, pp. 355-417; J. M. Weber and D.M. Messick, ‘Conflicting interests in social life: Understanding social dilemma dynamics’, in M. Gelfand and J. Brett (eds.) *The Handbook of Negotiation and Culture* (Palo Alto, CA: Stanford University Press, 2004), pp. 374-394; World Bank/LICUS ‘Assessment of Localities’ Compliance with Minimum Qualifying Criteria and Identification of their Capacity Needs in Northern Sudan: Synthesis Report (Final)’, January 2007.

The EU should push strongly to have oil companies involved in Sudan (i.e. from the EU, China, Malaysia and India) to agree to a joint transparency initiative.

**In the medium and long term:**

In a conflict-prevention perspective, prioritise urban planning in post-2011 referendum technical assistance.

Following existing best practice in Sahel, try to support Sudanese communities and authorities more systematically and over the long term in developing the livestock sector, and mitigating conflict over grazing lands through inclusive and legitimate processes.

## ASIAN OIL DIPLOMACY IN SUDAN?

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Out of fifteen foreign oil companies in Sudan, the three largest ones are the China National Petroleum Corporation (CNPC), Petronas of Malaysia and India's ONGC Videsh (OVL). Together, they own 95 percent of the Greater Nile Petroleum Company (GN-POC - which accounts for 88 percent of the total oil production in the country), the remaining 5 percent being owned by Sudapet, the Sudanese national oil company.

Several Western oil companies have withdrawn from Sudan since the early 1990s due to pressure from human rights groups and home governments. This gave the state-owned Asian companies, not exposed to pressure from domestic constituencies, a competitive advantage in setting up in Sudan. CNPC first came to Sudan in 1995, Petronas in 1996 and OVL in 2003, buying Talisman's share when the Canadian firm was forced to leave. China, with CNPC being the strongest shareholder of the northern Greater Nile pipeline, has potentially significant political leverage over Khartoum and Juba. India and Malaysia have continued to develop close ties with the North (investing in multiple sectors of the economy, with Malaysia facilitating arms deals). China has since 2002 accounted for 57 percent of Sudan's total exports. Japan, which at one time was the largest importer of Sudanese oil (ahead of China), has since 2007 reduced its imports as a response to international mobilisation on Darfur. Oil production has decreased in the past few years in Sudan, and the most promising prospects for new commercial oil seem to be in block B, operated by Total. The French oil company first came to South Sudan in 1980, although very little exploration of the site has been possible until now. Its rights over block B were reconfirmed in 2007 by the National Petroleum Commission.

## TRENDS IN THE OIL SECTOR AND POST-REFERENDUM SCENARIOS

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Preparation for post-2011 oil wealth-sharing arrangements must now take priority in Sudan. Oil has dominated the economic and political landscape of Sudan during the interim period of the Comprehensive Peace Agreement (CPA) and remains at the centre of festering political tensions between the North and the South. Southern oil production accounts for over 80 percent of total crude output in Sudan. However, the South remains attached to over 1,600 kilometres of oil pipeline heading north to Port Sudan and export terminals on the Red Sea. Should the South secede, Khartoum would lose considerable revenues, while Juba would have few immediate options available to sell its oil in large amounts. Without the settlement of oil arrangements, both sides will find themselves standing on shaky ground. This chapter calls upon policymakers, including those from the EU, to redouble efforts to support a post-2011 oil resource and revenue-sharing formula in the future unity or division of Sudan.<sup>1</sup>

### Oil and the economy

Oil has been central to Sudan's economy since crude was first exported from Port Sudan on the Red Sea in August 1999. Over the past decade it has driven an average rate of economic growth of nearly 7 percent. Nonetheless, the oil boom in Sudan has been narrowly concentrated in industrial and service sectors, offering little to the majority of Sudanese. If there was still a window of opportunity to make the prospect of unity attractive thanks to oil, it has abruptly been closed.

Agriculture still employs two-thirds of the workforce, but oil has represented over 90 percent of Sudan's total exports since the CPA was signed in January 2005. A trio of Asian National Oil Companies (NOCs) – China National Petroleum Corporation (CNPC), Petronas of Malaysia and India's ONGC Videsh (OVL) – have underpinned oil development in Sudan with billions of dollars in investment since the CNPC first entered the country in 1995. Sudan's economic ties with Asia and the Middle East have thwarted longstanding US sanctions and widespread divestment campaigns that have limited Western investment. Despite the growth of oil exports however (at US\$11.8 billion in 2008, and expected to fall to US\$5.3 billion in 2009 due to the drop in oil prices according to the IMF) the oil boom camouflages a critically weak economy.

1. Sources referred to when researching this chapter include: Center for Strategic International Studies; Central Bank of Sudan; Chatham House, London; The Economist Intelligence Unit; European Coalition on Oil in Sudan; Global Witness; IMF; International Crisis Group; Ministry of Finance and National Economy (Sudan); *The New York Times*; *Sudan Tribune*; UNEP; USAID; The World Bank.

For years Sudan has been burdened with twin deficits, running an average current account deficit of over US\$4 billion in the past five years. The importation of capital goods and foreign services has fed a burgeoning government debt. Oil was projected to comprise close to 60 percent of total Government of National Unity (GNU) revenue in 2008, averaging over US\$4.79 billion earned annually from exports and sales to local refineries since 2005. Nonetheless, average total revenues of US \$7.94 billion have been outpaced by expenditures of some US\$8.26 billion. Sudan's total national debt stood at a staggering US\$33.7 billion in 2008. The Government of Southern Sudan (GoSS) is utterly dependent on oil transfers from Khartoum, which amounted to US\$6.4 billion from 2005 to June 2009 (roughly 99 percent of total southern revenues).

Sudan experienced its first oil shock when the major downswing in international oil prices began to take effect in early 2009. It has failed to manage the Oil Revenue Stabilisation Account, designed to shelter government revenues from volatile international oil commodity price swings, and investment in other sectors of the economy has been largely neglected despite record-level oil earnings. Thanks to decreases in spending and new tax measures applied by the GNU, as well as a rise in oil prices back to US\$60-70 per barrel by mid-2009, Sudan was able to avoid a complete financial meltdown. The situation however was bleaker in the south. In the first half of 2009, the GoSS had only received US\$313 million from oil transfers from the central government compared to over US\$1.2 billion in the same period in 2008. A struggling Bank of Southern Sudan had to rescue the Nile Commercial Bank as it ran out of cash in April 2009. Many southern civil servants went without salaries for months on end as crime, banditry and tribal clashes rose in the region. The resurgence in oil prices will help the GoSS avert disaster (it needs the price per barrel to be over \$60 in the second half of 2009 to meet its budget target).

## The oil sector

The oil boom in Sudan was exceptional in nature. Following the signing of the CPA, the rise in oil production coincided almost perfectly with skyrocketing international oil prices. Total crude output shot up from 305,000 barrels per day (bpd) in 2005 to 480,000 bpd in 2008 as international crude prices rose over 40 percent in value. Today however, a combination of exaggerated forecasting, a lack of investment from cautious oil companies, and poor infrastructure has already limited Sudan's oil production. Unless major discoveries are made in the future, flattening oil production, unproven reserves, poor crude qualities, and questionable oversight threaten to undermine peace and stability during the last months of the CPA. The weakness of the oil sector however has gone largely unacknowledged and the inflated expectations regarding production threaten to spark a return to civil war.

**Oil Revenue Shares (in millions of US dollars)**

| Year               | GoSS       | Producing States:<br>Unity State, Upper Nile State,<br>S. Kordofan |
|--------------------|------------|--|
| 2005               | \$798.40   | \$45.04  |
| 2006               | \$953.30   | \$42.83  |
| 2007               | \$1,457.83 | \$82.39  |
| 2008               | \$2,888.20 | \$138.32   |
|                    |            | Abyei: \$43.03   |
| 2009 (Jan. - Jun.) | \$312.86   | \$14.92  |
|                    |            | Unity Support Fund: \$45.42  |
|                    |            | Abyei: \$10.137  |

\* *Source:* Ministry of Finance and National Economy (Sudan).

Sudan is set to continue to produce increasing levels of oil heading towards 2011. It is also likely to remain sub-Saharan Africa's third largest producer behind Nigeria and Angola in the medium term. There are nonetheless serious question marks hanging over the longevity of production with some estimates placing its peak at under 600,000 bpd on the basis of current production and reserve levels. This is a far cry from the 1 million bpd envisioned by officials at the Ministry of Energy and Mining in Khartoum. Even optimistic forecasts see a unified Sudan or separate Southern Sudan only enjoying another 20 years of strong revenues from oil exports.

In general, Sudan has small and medium-sized oil fields that grow in number and decrease in size the further one travels south. Its geological structure is also characterised by faulted reservoirs that make drilling and advanced recovery techniques more difficult. Sudan is in need of sophisticated technology and expertise to enhance its production levels. The majority of Sudan's oil has traditionally come from Blocks 1, 2 and 4 in the Muglad basin (Unity).<sup>2</sup> These concessions have produced the high-quality Nile crude blend for export, but are now in serious decline. Production levels have dropped in the blocks from a peak of nearly 271,000 bpd in September 2006 to

2. A map of oil blocks and consortia in Sudan is available online at European Coalition on Oil in Sudan. See: <http://www.ecosonline.org/oilmap/resources/>.



188,000 bpd in December 2008. It has been crude production (beginning in April 2006) of the lower quality, highly acidic Dar blend that has compensated for much of this loss. Output in Blocks 3 and 7 of Upper Nile State could reach 300,000 bpd in 2009 with the Qamari, Gumry and Moletta oil fields coming onstream.

Falling oil production levels in Sudan can be countered with new discoveries, but to date outside of the discovery of some new gas reserves in Blue Nile State and along the Red Sea, the prospects of significant new commercial oil reserves in the extension of the Muglad basin (Blocks 5A, 5B and B) have been discouraging. The French oil company Total, operating in Block B, which today contains the most significant, and perhaps the last, prospect for new discoveries in the South, indicated it could produce 300,000 bpd out of the enormous concession in 5-7 years from the beginning of fully-fledged exploration activities. The National Petroleum Commission approved the participation of the Moldovan oil company ASCOM to take over for the oil consortium WNPOC in August 2009 when Lundin and OVL pulled out after three unsuccessful exploration wells were drilled.

There are critical differences between the two main crude blends produced in Sudan. On the one hand, the Nile blend has similar characteristics to Indonesia's Minas and has fetched a consistent price of US\$7 per barrel below Brent on average since 2005. The Dar blend on the other hand requires constant heating throughout transportation to avoid congealing as well as specialised refining facilities due to its arsenic content. Dar has averaged a discount of over US\$25 per barrel compared to Brent since 2005 with highly volatile price levels. It has managed to fetch bids of around US\$7-8 per barrel below Brent in 2009 as the global petroleum industry continues to adjust to lower levels of available high quality crude on the market and as refineries, particularly in China and Japan, begin to handle greater levels of low quality crude. A lifting of US sanctions would further increase its value by opening up refineries on the Gulf of Mexico. In the meantime, 2009 marked the first year that the poorer quality Dar produced higher levels in Sudan than the Nile blend, a gap that will continue to widen towards 2011. As a result, Upper Nile state, where the Dar blend is found, will replace Unity and South Kordofan state as the primary region of oil production in Sudan. Lastly, there have also been considerable man-made technical limitations. A combination of a lack of refinery capacity at Port Sudan, delayed oil pipeline and sea terminal development, alleged closed tenders, and engagement with inexperienced oil companies has further diminished the value of Sudan's oil. However, these managerial and technical failures still pale in comparison to the political volatility that has surrounded the oil sector during the interim period of the CPA.

### **Oil and future stability**

Mistrust between the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) has been fuelled by the incomplete and dysfunctional implementation of many of the CPA wealth-sharing provisions. An effective and a functioning

National Petroleum Commission is still missing with southerners playing an inadequate role in the oil sector.

Some notable signs of compromise on oil may nevertheless help to promote avenues of economic mutual interest. The resolution of the Total-White Nile dispute, the Abyei roadmap agreement, and reactions after the ruling of the Permanent Court of Arbitration in the Hague placed key oil fields outside the boundaries of the disputed Abyei region indicate the priority attached among the NCP and SPLM to maintaining steady oil revenues and avoiding a return to civil war. The challenge of determining the conditions of oil resource-sharing, whether in a unified Sudan or secession scenario, will nonetheless be tremendous.

The reluctance in Khartoum to give up oil revenues is met by an utter distrust and lack of sympathy from the southern elite. The GoSS faces high levels of uncertainty concerning its oil-dependent budget, which is compounded by a lack of transparency regarding oil revenue transfers. Southern Sudan has generally received its 50 percent allocation of oil revenues from Khartoum. Nonetheless, reservations remain regarding the actual production and price figures on which GoSS transfers are determined. An agreement struck after the SPLM suddenly withdrew from the GNU in October 2007 to bring GoSS appointees into the various oil consortia has still not been fully implemented. Khartoum now also sends oil transfers to the Bank of Southern Sudan in Sudanese pounds, hampering the ability of GoSS to maintain strong foreign currency reserves. Altogether, the GoSS and SPLM have been provided with few reasons to wish to remain locked in a political agreement with the NCP after 2011.

In the absence of a transparent arrangement on oil revenue sharing after 2011 and improved conditions for communities living in oil-bearing regions, armed conflict will continue to remain a threat. The poor transparency record of Khartoum on oil revenue transfers indicates that it may be unwilling to separate from its oil revenues without a political fight or indeed a return to war. Capturing strategic oil fields in Unity State and Upper Nile would allow it to exploit disputed boundaries and its oil pipeline and Red Sea market access after 2011. Conversely, the SPLM has been given little assurance during the interim period of the CPA that it is dealing with a fair and open partner. It is keen to defend oil territory it sees as rightfully belonging to the South. The Southern elite regard their future survival and prosperity as an independent state as inextricably bound up with stable revenues from oil. Nonetheless, oil management in the South has been less than encouraging during the interim period, and conflict between southern groups revolving around oil remains a likely outcome post-2011.

Southern Sudan may become the most oil-dependent state in the history of the world after 2011. Unfortunately, it has demonstrated little concern about the costs of exploiting its tremendous oil wealth in terms of social and economic development. The ongoing lack of a tangible peace dividend and the environmental degradation

caused by the oil sector threaten to further destabilise oil-bearing regions. Fiscal mismanagement is on the rise and corruption is at times blatant among the southern political elite; all the while, Juba and other southern towns remain crippled by a lack of appropriate health, infrastructure and education investments. Regardless of the results of the scheduled 2011 referendum, many fear that a protracted Niger Delta-esque scenario is evolving in Southern Sudan. Examples of social underdevelopment in oil-communities, environmental degradation in the sensitive Sudd marshland, and incidents of local armed groups kidnapping oil company employees have been numerous since the signing of the CPA.

The political upheaval linked to the uncertainty of control over oil resources means that it is imperative that an agreement on revenue sharing be signed before the interim period draws to a close. At the moment, it is difficult to imagine that northern political elites would accept terms that exist in similar pipeline arrangements around the world, such as the transit fee of 41 US cents per barrel that Cameroon receives in the Chad-Cameroon pipeline. Nonetheless, it would be a long and costly process for Southern Sudan to build its own infrastructure. If new commercial oil reserves are found, a pipeline to the Kenyan coast would cost \$1.2 - \$2 billion, take 3-5 years to come onstream, and likely be met by strong transfer fee demands. Even the additional infrastructure required to export possible oil from Block B to existing pipelines in the north will cost an estimated US\$600 million. A small-sized refinery could supply local and some regional demand in the south, but existing northern infrastructure remains the most sensible point of export post-2011.

It is doubtful how long the shaky political situation in the North and South can maintain some form of stability without steady oil revenues after 2011. Norway has engaged the NCP and SPLM in discussions on establishing post-2001 oil revenue sharing agreements, but it is unclear how far these efforts have progressed; more concerted support from the international community may help negotiations. Any new deal on oil should also not repeat the lack of transparency and accountability that exist in current arrangements. Attention must also be paid to other aspects in order to avoid the emergence of a vacuum in oil sharing management: border demarcation between the North and South, international standards on environmental and social management, possible renegotiation of commercial contracts with foreign companies in the South and the usage of pipelines and related oil infrastructure will need to be established and regulated.

## **Recommendations to the EU**

The EU should, in consultation with key Sudanese and international stakeholders involved in the oil sector, support initiatives aimed at developing a comprehensive framework for negotiations between the NCP and SPLM on post-CPA oil wealth-sharing arrangements.

Specifically, it should engage China, India and Malaysia to be more active partners in supporting such post-2011 arrangements and other aspects of industry management.

Finally, the EU should continue to work with both the NCP and SPLM to develop their technical oil expertise and support initiatives to improve transparency and accountability.

## IV. THE WAY FORWARD FOR REGIONAL AND INTERNATIONAL POLICIES

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### THE REGIONAL DIMENSIONS OF POST-REFERENDUM SUDAN: THE AU AND IGAD, AND NEIGHBOURING STATES

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If the EU decides to actively promote dialogue between the various Sudanese parties to implement the Comprehensive Peace Agreement (CPA) and support the planning of a post-referendum phase, it should coordinate closely with African multilateral organisations and neighbouring states. This chapter examines how this might be possible and under what format.

#### **Introduction: assessing the role of neighbouring countries in influencing Sudanese policy**

The first observation that needs to be made is that the ability of neighbouring countries to influence Sudanese policymakers, particularly with regard to the management of post-referendum issues that may arise, is rather limited. Conversely, there are reasons for neighbouring countries to be concerned about the potential influx of refugees and illicit traffickers that might occur in the absence of a stable transition to post-referendum Sudan. Specifically, 'the remoteness of Sudan's 7000-kilometre borders and adjoining airspace, coupled with the long tradition of proxy intervention by neighbouring states in the region, have historically permitted the cross-border movement of Sudanese rebel groups into Chad, Ethiopia, Eritrea, and Uganda.'<sup>1</sup> Failure to contain the crisis in Sudan could increase its potential to spill over and ignite an even more acute sub-regional conflict dynamic.

In the early 1990s, during the mediation efforts led by the Intergovernmental Authority on Development (IGAD), the relationship between Khartoum and the neighbouring governments was relatively positive. Omar al-Bashir was relying on the support of the then new Ethiopian and Eritrean governments which had severed support to the Sudanese People's Liberation Movement and Army (SPLM/A). In addition, al-Bashir calculated that IGAD's intervention would appeal to the SPLM/A since the regional organisation included states that had supported SPLM/A against

1. Mike Lewis, *Skirting the Law: Sudan's Post-CPA Arms Flows* (Geneva: Small Arms Survey, 2009), p. 47.

Khartoum. Al-Bashir was also motivated by the desire not to create a pretext for untrammelled foreign intervention on Sudanese soil. Neighbouring countries were actively engaged in promoting peace in Sudan. The IGAD Standing Committee on Peace in Sudan was duly formed and chaired by the then President of Kenya Daniel Arap Moi, and included the Presidents of Ethiopia (Meles Zenawi), Eritrea (Isaias Afewerki) and Uganda (Yoweri Museveni). The bulk of this body's work was to be undertaken by a ministerial committee from the four countries with President Moi presiding over its activities. The Committee initiated proximity talks in January 1994 and sought to get the parties to agree on a common agenda.<sup>2</sup> The work of this Committee laid the foundation for the signing of the Comprehensive Peace Agreement (CPA) in 2005. The four years that constitute the post-CPA period have seen the relative waning of the influence of Sudan's neighbours on its internal policies. The Bashir-led National Congress Party (NCP) has been particularly resistant to submitting to any pressure from Ethiopia, Uganda and Kenya to implement the provisions of the CPA. Today, the policy influence of Ethiopia, Kenya and Uganda has been largely marginalised. As a result, there are strong pro-SPLM sentiments within policy circles in these three countries.

Even though President Zenawi welcomed al-Bashir to Addis Ababa in the aftermath of his indictment by the International Criminal Court (ICC) for war crimes in Darfur, the Ethiopian leader has not been able to encourage Khartoum to adopt a more flexible position with regard to the progressive implementation of the CPA. In June 2009, Salva Kiir, the President of the Government of Southern Sudan, met with Zenawi in Addis Ababa and discussed a range of bilateral agreements including developing road connectivity and the provision of electricity from Ethiopia's Gambella region to Malakal and Bor, the capitals of Upper Nile and Jonglei respectively. It is therefore evident that Addis Ababa would prefer to see an amicable convergence in terms of the resolution of political differences between the north and the south of the country as prolonged instability will undermine the prospects for development across the Nile Basin. A potential reconfiguration of the Sudanese border, as a consequence of the 2011 referendum, would increase the pressure for the re-negotiation of the Nile Basin Treaty. The emergence of an independent South Sudan could in effect potentially imply some changes in the regional governance formats managing Nile water resources.

One of Ugandan President Museveni's government officials' inadvertently stated that if al-Bashir travelled to Uganda, they would be obliged as signatories to the Rome Statute to legally arrest al-Bashir. Uganda is already implicated in the conflict dynamic. The Lords Resistance Army (LRA) insurgency against the Ugandan government has to a certain extent become drawn into the north-south stand-off in Sudan. Specifically, the LRA has historically conducted its insurgency from South Sudanese positions, which has undermined the quest for peace in Uganda. In a post-referendum scenario where

2. Ruth Iyob and Gilbert Khadiagala, *Sudan: The Elusive Quest for Peace* (New York: International Peace Academy, 2006), p. 104.

South Sudan becomes re-militarised then the potential for a more pronounced re-ignition of LRA activities becomes a real possibility.

In October 2008, a shipping vessel carrying a significant amount of armaments was hijacked by pirates off the coast of Kenya. Even though the Kenyan government denied that the weapons were destined for the Government of South Sudan (GoSS), analysts suggested that there was considerable evidence to support this assertion, according to a study commissioned by the Geneva-based Small Arms Survey in 2009.<sup>3</sup> In 2009, Salva Kiir was hosted by the Prime Minister of Kenya, Raila Odinga, and awarded an honorary degree by the University of the Great Lakes, further exposing the inherent bias of the Kenyan leadership towards the South Sudanese position.

Chad, which is not a member of IGAD, is engaged in a proxy war with Sudan, given that armed militia in both countries have undertaken reciprocal invasions. Explicitly, Chad is effectively supporting the Darfur-based militia, the Justice and Equality Movement (JEM), which is reluctant to re-engage in dialogue with Khartoum. In riposte, JEM and GoSS officials have echoed N'djamena's position 'that arms and ammunition continue to be actively supplied by the Sudan Air Force (SAF) to government-supported militia in Darfur; to Chadian opposition rebels in eastern Darfur and western Chad; and to armed groups operating in Southern Sudan, including the Lord's Resistance Army and groups in Jonglei and Upper Nile states.'<sup>4</sup> In effect, Idriss Deby's political influence on Khartoum is non-existent, but his convergent views with the GoSS suggest that there is an open line of communication with Juba.

Libya and Egypt retain a modicum of political influence over Khartoum given their historic ties. Even though according to a UN investigative panel some of the light and heavy weapons that have been captured from Sudan-based armed militia have originated from government stockpiles in Libya,<sup>5</sup> Gadaffi, the 2009 Chairman of the African Union Assembly of Heads of State and Government, proffered the most vocal support for al-Bashir, following his indictment by the ICC. Cairo in particular would like to ensure Egypt's access to the Nile waters. Both countries are tacitly supporting the northern Sudanese policy and decision-makers, with whom they have maintained a long-term working relationship.

### **The roles of IGAD and the AU in stabilisation initiatives in Sudan**

The self-determination referendum and the creation of a new African state will pose a series of challenges to African multilateral organisations that need to be addressed early on.

3. Lewis, *op. cit.* in note 1.

4. *Ibid.*, p. 50.

5. *Ibid.*, p. 47.

In June 2008 IGAD decided to establish an office for its Special Envoy to Sudan on the Comprehensive Peace Agreement.<sup>6</sup> Since January 2009, Ambassador Lissane Yohannes has been working closely with the Assessment and Evaluation Commission (AEC), as well as the Sudanese Government of National Unity (GNU) and GoSS, to ensure the timely implementation of critical CPA provisions.

The African Union (AU) and UN therefore have to at the very least consult, if not work in tandem or delegate to IGAD the task of advancing peace and security on the Horn of Africa. These overlapping mandates require careful coordination between the three organisations. This being said, the configuration of today's regional power politics has changed since the pre-CPA phase of the 1990s. While IGAD, as a multilateral forum, is pursuing proactive diplomacy, the real tension and policy divergence among its member states suggests that its ability to genuinely influence the governments of the region will remain limited and that it will require additional support.

In the lead-up to the signing of the CPA the AU Peace and Security Committee (PSC) issued a number of communiqués advocating for the promotion of peace in Sudan. In the aftermath of the signing of the agreement, it has closely monitored its implementation and the situation in the country. For instance, the AU PSC communiqué noted 'with concern the delay in the implementation of crucial components of the Comprehensive Peace Agreement'.<sup>7</sup>

The AU has also been actively trying to prevent the dispute between Sudan and Chad from spreading and having further ramifications in the region. The Report of the AU High-Level Panel on Darfur (AUPD) to the Peace and Security Council, noted that the AU should continue to exercise a leadership role 'including the exercise of self-determination in Southern Sudan'.<sup>8</sup> Specifically, the AUPD recommended 'the establishment of a special unit, within the Peace and Security Department, to support the AU's increased engagement with Sudan' and 'equipping the AU Liaison Office in Sudan to play a greater support role in the Sudanese peace processes'.<sup>9</sup>

On 29 October Thabo Mbeki was given the mandate by the AU to follow up on CPA implementation and the 'democratic transformation' of Sudan.<sup>10</sup> In this task he will be helped by General Abdulsalami Abubakar and Pierre Buyoya, two strong political figures and former heads of state. The potential of this team to address immediate

6. Intergovernmental Authority on Development, *IGAD News*, no. 36, April-June 2009, p. 6.

7. African Union, Communiqué of the 159<sup>th</sup> meeting of the Peace and Security Council, PSC/PR/Comm.1(CLIX), Addis Ababa, Ethiopia, 24 November 2008.

8. 'Darfur: the Quest for Peace, Justice and Reconciliation', Report of the African Union High-Level Panel on Darfur (AUPD), PSC/AHG/2(CCVII), 29 October 2009, p. 99.

9. Ibid.

10. Statement by the African Union, on the Communiqué of the 207<sup>th</sup> meeting of the Peace and Security Council, on Darfur, PSC/AHG/COMM.1(CCVII), 30 October 2009.



challenges analysed in the present report and post-referendum issues, is promising. It also reflects the degree of priority of Sudanese issues on the AU's agenda. Mbeki's team is going to expand and recruit more people and the EU and some Member States are probably going to contribute financially to support its work. The strongest potential for cooperation between the EU and African initiatives on post-referendum Sudan certainly lies in close and strong support to AU initiatives and in particular to the appointed mediation team led by former South African president Thabo Mbeki.

### **Violent crisis scenarios in Sudan and policy options for the EU**

Close policy cooperation between the EU and the AU, via, among others, the EU delegation in Addis Ababa, will be essential to manage the post-referendum situation in Sudan. Similar outreach to IGAD's decision-making structures will also be necessary. The new EU strategy for the Horn of Africa and the Africa-EU partnership for peace and security provide adequate frameworks for this cooperation.

Depending on the outcome of the referendum, the need for humanitarian assistance could either increase or abate. In the regions of the south where internecine violence may escalate, the EU needs to be ready to work in partnership with other organisations including the AU Liaison Office and the UN, to continue to ensure the delivery of emergency relief.

If a violent crisis scenario erupts in the lead-up to, or in the aftermath of, the 2011 referendum, the EU would not have the legitimacy to intervene militarily. The EU could however be called upon by the UN Security Council to play a role in military intervention in a post-referendum Sudan. However, given al-Bashir's and the NCP's reluctance to create a pretext for untrammelled foreign intervention on Sudanese soil, it seems that the military option will be fraught with challenges and complexities. The EU has a record of supporting AU peace operations. Therefore, there could be scope for similar support for future peace operations in Sudan.

The AU Standby Force (ASF) will theoretically be operational by 2010. However, there are still coordination issues that need to be resolved with reference to the AU's mandating and coordinating role. Furthermore, while the countries of the Horn of Africa have endorsed the establishment and operationalisation of EASBRIG (the Eastern African Standby Brigade), it is not clear whether sovereign states in the region will apply the necessary political will to ensure that an intervention is pursued when faced with a crisis.

## **Recommendations to the EU**

While recognising that IGAD has the diplomatic mandate to politically engage with the Sudanese peace process and legitimately demand a role in managing the post-referendum context, the EU should assume that IGAD is constrained in its ability to influence Khartoum.

The EU and its Member States should try to optimise the potential synergy with the AU (particularly with the Mbeki team) in the framework of the new EU external service by making available diplomatic and material resources.

## ONGOING INITIATIVES TO FACILITATE DIALOGUE BETWEEN THE PARTIES ON POST-CPA CHALLENGES

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Dialogue promotion initiatives to help the NCP and the SPLM, civil society or citizens, discuss key post-referendum issues and scenarios have burgeoned to such an extent that their coordination has become unclear. These track two or informal diplomatic undertakings tackle very sensitive matters and their authors are usually reluctant to communicate widely about them. Given the urgent necessity of launching a genuine and internationally backed-up process, and the need for political engagement at the highest political level, one may wonder to what extent these ongoing initiatives should be made more public and how they should be coordinated.

The US Special Envoy created a new momentum with a series of confidence-building meetings and consultations. The adoption of the new US policy in Sudan reflected a renewed attention to CPA implementation and post-2011 issues.

The US Institute for Peace (USIP) has conducted research work on Sudanese scenarios up to 2011 and hosted an important US-led dialogue promotion event in June 2009 in Washington.

Some African initiatives are in the making, with the organisation of a large-scale conference on Sudan's future by University of South Africa (UNISA) in South Africa on 25-28 November 2009.

On 6-7 October 2009, Russian Special Envoy for Sudan Mikhail Margelov convened an international conference on Sudan with high-level representatives from key stakeholders, including the NCP. The SPLM was however not equally represented.

The Norwegian government has been leading a mediation on oil-related issues. The European Commission has been funding the British NGO, Concordis, which conducted a series of North-South dialogue workshops on scenarios.

Multilateral organisations and donors like the UN, the AU and IGAD, Canada, Switzerland and the UK have also carried out, supported or are currently planning mediation/facilitation work on the CPA and post-CPA challenges. Other track two activities led by Western NGOs or think tanks are taking place but remain confidential.

To avoid duplication and competition, a clear division of tasks designed by a core group of powers and stakeholders in Sudan would probably be useful to maximise the political impact of these encouraging initiatives.

## **INTERNATIONAL ACTORS IN SUDAN: THE URGENT NEED TO UNITE BEHIND AN ALL-SUDAN STRATEGY**

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The situation in Sudan has become extremely complex and increasingly challenging to manage for external players. The main achievement of the Sudan peace process, the commitment made in 2005 by both the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) to the Comprehensive Peace Agreement (CPA), is at risk, and the intense international efforts to stop and resolve the Darfur conflict have failed to produce results.

### **Lessons from the past five years**

The fundamental commitment of the parties to 'making unity attractive' at the time of the signing of the CPA has not materialised, and the prospect of secession of Southern Sudan has become extremely likely. International and regional players, most of whom had premised their support for the CPA on the assumption that unity would prevail and that the involvement of SPLM in the central government would lead to reform politics in Khartoum, have to urgently update their scenarios and policies.

As secession has become a real option, mid-term elections as prescribed by the CPA have partially lost their meaning and purpose. The elections were first conceived as a test of the unity of the country midway into the six-year interim period, as well as a tool for national democratic transformation and inclusion of non-armed opposition parties. However, now scheduled to take place in April 2010 (a few months before the 2011 referendum in the South) they are unlikely to fulfil any of these goals. In fact, given the the SPLM's lack of interest, the weakness of the non-armed opposition and lack of democratic reform, they are likely to result in an NCP victory, consolidating its rule.

The assumption that the Darfur crisis could be resolved before the end of the CPA interim period and in particular that the SPLM take an active role in advancing the peace process (as promised by Garang) has been proven wrong. This assumption drove the strategic choice in 2005 to favour the negotiation of a bilateral North-South agreement, instead of integrating a solution to the Darfur crisis into an all-Sudan conflict resolution framework. The international community then turned its attention almost exclusively to the deployment of a peacekeeping force and to a major campaign against human rights violations committed in Darfur. These efforts have not succeeded. Furthermore, the situation in Darfur has now become an obstacle to the implementation of CPA national deadlines, including the 2010 national executive and legislative elections.

By disconnecting the CPA and Darfur tracks and taking a piecemeal approach to peace in Sudan, the international community has let the overall architecture of the peace process collapse into a vaguely coherent assortment of peace deals with varied levels of implementation, and has lost critical leverage over the transformation of the country. The greatest risk at this stage is that the external players will rush back and pick up the pieces of the CPA to avoid a return to war, without concern for the serious challenges posed by rushed or manipulated implementation of the elections and referendum.

Another new and critical factor has affected the 2005 political equation: the role of international justice. At the time of the signature of the CPA, no one anticipated that one of the parties to the agreement, the NCP, would see its leader indicted by the International Criminal Court (ICC) for crimes against humanity and war crimes, and discredited internationally. While the indictment has created an additional instrument of pressure on the NCP, it has also added to the risks and complexity of the political situation by increasing the feeling of insecurity in the NCP and their determination to organise and win the elections, so as to protect their president from the ICC.

As mentioned in other chapters of this report, the Sudan peace process is at a crossroads, yet the way forward is not obvious, in part because of the many competing dilemmas and strategic choices with which international policy makers are confronted.

### Short-term dilemmas

The first dilemma concerns the need to reconcile the CPA and Darfur processes into an 'All-Sudan political strategy'. On the one hand, the international community could give priority to the resolution of the Darfur conflict, which will necessarily take time and lead to postponing CPA implementation, including the elections, to allow Darfuris to participate. This however would cause a serious breach in the CPA timetable, and provide a way for the NCP to delay the referendum law and possibly the referendum itself. The other option would be to give priority to the CPA timetable, which would mean rushing the Darfur process to allow some form of participation (likely to be unsatisfactory) for all Darfuris, including the victims of the war currently in IDP camps, in the April 2010 elections. The implementation of any political deal negotiated between the NCP and the Darfuris would be postponed until after 2011. Neither solution is fully satisfactory: option 1 would seriously antagonise the SPLM and the Southerners and risk unravelling the CPA, while option 2 would risk leading to further marginalisation of the Darfuris from national politics. The only way to resolve the dilemma would be to hold elections and the referendum at practically the same time (end of 2010 and beginning of 2011) to allow time to get the Darfur peace process back on track, without jeopardising the referendum timetable.

The second dilemma concerns whether and in which conditions the international community should support the electoral process. On the one hand, the 2010 elections are a necessary step on the road to the 2011 referendum, as the CPA stipulates that only an elected government can supervise the preparation of the referendum. On the other hand, these elections will be extremely expensive and logistically nightmarish to organise. Sudan is as big as Western Europe and in a context of quasi-civil war, with an autocratic government in charge and key CPA legislation which has not been passed. The possibility of fraud is very high; worse, it is likely that Omar al-Bashir, the incumbent candidate of the NCP and an ICC indictee, will win the elections. The elections will very likely lead to the emergence of a new Darfur elite closer to the NCP and supplant current leaders, which could close the door to serious peace negotiations for some time to come. If the NCP consolidates its power through manipulating elections, the international community will lose even more of its leverage over the party. Last but not least, elections could also seriously destabilise Southern Sudan and increase divisions between major ethnic groups and within the SPLM leadership. It is therefore essential that the international community does not sleepwalk into Sudanese elections, and that it urgently demands the implementation of a certain number of democratic benchmarks, such as the adoption of key legislation (national security laws, referendum law) as well as strict and internationally-monitored guarantees to protect the rights of the citizens, notably the IDPs. The UNSC should direct both the United Nations Mission in Sudan (UNMIS) and the United Nations-African Union Mission in Darfur (UNAMID) to tie their support to the electoral processes to the implementation of the same benchmarks and toughen their stance vis a vis the Electoral Commission.

The third dilemma is the self-determination challenge. If indeed the referendum happens in 2011, and the South secedes, what will South Sudan look like the day after the referendum? In six years of semi-autonomy will the South have succeeded in building institutions that can guarantee a viable and secure state and full independence from Khartoum? Two major concerns should be noted here. Firstly, it is likely that the CPA programme will not be finished by 2011. Most critically, there may be no agreement on how and for how long to share oil resources post-2011. Secondly, the South itself does not seem to be ready for independence. There are serious concerns about the viability of the state. The SPLM/A has not yet transformed into a political party and politics is still highly militarised in South Sudan. Furthermore, many intra-South disputes remain unresolved and ethnic violence could take a major toll. Finally, the South will remain severely dependent on international aid. It seems we are faced with a choice between supporting the postponement of the referendum and risking North-South war again, or assisting in the birth of a failed state.

The only possible way out of this dilemma for the international community is to take a much more proactive role in mediating between the two parties of the CPA than it has taken so far. The two parties need external help to make the necessary compromises for full CPA implementation, as well as to agree on post CPA/referendum scenarios and possible arrangements.

Since unity seems no longer attractive, the international community has to update its contingency plans: should the results of the referendum lead to independence of the South, its focus will have to be on how to facilitate smooth separation, ensure the peaceful coexistence of the two separate countries after 2011, but also ensure the stability and viability of both future Northern and Southern states.

### **Towards an international all-Sudan strategy**

Now is the time for the international community and the EU to step up their game and speak with one voice, both to keep the political process on track, and to avoid a state implosion and return to violence which could lead again to massive crimes against Sudanese civilians and human rights violations. With all of the diplomatic attention focused on Darfur in the last few years, and more recently on the CPA, and with roughly 30,000 peacekeepers in Sudan, the international community cannot pretend it was unaware of the risks of the situation. Should the world fail to successfully engage in the Sudanese peace processes, it will share the blame for their collapse; the people of Sudan will bear the cost.

A proposed strategy would comprise several components.

First, finish the unfinished business of the CPA, and facilitate the exit strategies of the parties from the CPA by organising both credible elections and a referendum through which the Southerners can exercise their most important right gained through the peace accord – the right of self-determination. However, to offer both legitimisation to the NCP through elections and independence to the SPLM through the referendum on a silver platter and unconditionally would be seriously unwise. Second, demand minimal conditions for organising credible elections, including in Darfur, which is the only way to create a prospect of stability in the future state of Northern Sudan. Third, external players must also urgently negotiate an additional protocol to the CPA or an implementation framework for the referendum, allowing for a gradual transfer of sovereignty between Khartoum and Juba and including a number of key benchmarks on demilitarisation of politics, capacity of state institutions to provide security and basic services to the population, and the viability of the economy. It is essential that this discussion happens now and that a legitimate framework for this discussion be established as soon as possible. Fourth, the UN Security Council members should start looking at reconfiguring the UNMIS mandate to support the transition from semi-autonomous to fully independent government, perhaps learning lessons – positive and negative – from experiences in Kosovo or East Timor. Fifth, in Darfur, the Mbeki panel provides a good basis for consensus and its recommendations should be followed. The Darfur-Darfur Dialogue Committee (DDDC) suggested by the report should immediately identify the minimal conditions for participation of Darfuris in elections. The ultimate goal of this process would be

a political agreement (picking up the pieces of the Abuja process including return and compensation of IDPs, the re-creation of one Darfur region and power-sharing arrangements including a vice-presidency for Darfur) that would be applicable after 2011. Furthermore, if the hybrid court proposed by the panel is fully implemented, the use of an Article 16 deferral of ICC proceedings would become a viable option in negotiations, provided that justice be done to the victims of the Darfur conflict in other ways, as recommended by the Mbeki panel.

2011 will mark the official end of the CPA power-sharing arrangements, which should create new opportunities and notably allow participation of the Darfuris and other population groups in marginalised peripheries in government. The 2010 elections could also redistribute national and local power across the whole country. However, if a post-CPA implementation framework is agreed upon, the interim constitution could still be prolonged and amended and remain the national law for the period of transition leading to full implementation of the results of the referendum. Only an all-inclusive and transformative conflict resolution framework could give birth to two reasonably stable and cohesive Northern and Southern Sudan states.

Who should take the lead in facilitating these negotiations? There are now many, perhaps too many, special envoys to Sudan (US, AU-UN, EU, Russia, China, UK, France as well as appointees from neighbouring countries). Just looking at Darfur, several visions for the Doha process launched in Qatar compete with each other: the AU/UN mediator Bassole, the AU Mbeki panel and US Special Envoy Scott Gration have developed various concepts for the Darfur process, while Egypt, Libya, Chad and Qatar are also competing for influence in the region. Different emphasis is also placed on the need for accountability and justice, and the option of using Article 16. The international community is thankfully more united on the need to keep the CPA on track, although the neighbouring countries are torn between supporting Southern independence and weakening the NCP rule, and the prospect of having a very weak neighbour and possible violence spilling over from Southern Sudan. Egypt is also very worried about the creation of a new country that would have control over parts of Nile waters.

The US clearly has a lead role to play in mediating between the parties and helping to fill the gaps of the implementation of the CPA, as well as in organising discussions on the post-referendum arrangements, and perhaps also in acting as the main guarantor of implementation modalities. The US is in a unique position to do so; indeed, the NCP's main goal in the past decade has been to obtain the lifting of US sanctions and normalisation of the US-Sudan relationship. The US government had promised to lift sanctions after the CPA was signed, but then suspended its promise when the government's counterinsurgency campaign in Darfur led to mass displacement and human rights violations. Now that the economic situation has deteriorated, the NCP wants the lifting of US sanctions more than ever.

The key principles and objectives of the new US policy on Sudan are general and holistic enough to allow the US to take the lead and implement the strategy proposed



above. But in order to gain traction, the US government needs to work with partners to define a common vision for the future of Sudan. Consensus needs to be built around the strategy to attain key goals and guarantees need to be made to China and other key investors, like India and Malaysia, as well as to all countries in the region – members of the Inter-Governmental Authority on Development (IGAD) and of the League of Arab States (LAS) – that this is the best roadmap to stabilisation of Sudan and protection of their respective interests. In particular, the US will need to demonstrate that the strategy is not aimed at regime change in Khartoum, which many players would not support at this stage, but at defining a high price for normalisation of diplomatic relations.

China, Sudan's most important foreign investor and key economic partner of the NCP, is also in a position to use diplomatic, economic and military leverage on both the NCP and the SPLM and to work more closely with the rest of the international community on coordinating a united stance. Indeed China is also gradually establishing a separate relationship with the Government of Southern Sudan as many of its oil interests would depend upon an SPLM-led government should the South leave Sudan after the promised 2011 referendum. Both China and the SPLM have expressed interest in strengthening their relationship, including during the July 2007 visit of SPLM Chairman and First Vice-President of Sudan Salva Kiir to Beijing, his second trip in three years. China has deployed a contingent with the UNMIS presence in Wau, and is also preparing to open a consulate in Juba. Russia, which according to Mikhail Margelov, 'is back in Africa',<sup>1</sup> should also be involved.

Finally, the EU also has a crucial role to play. Different EU Member States are involved on several levels and should fully use their leverage accordingly. As for mediation and political pressure on the CPA exit strategy, Darfur peace process and post-2011 peaceful coexistence, the UK is part of the Troika (together with the US and Norway), some other Member States (France, UK, Austria) are members of the UN Security Council or take part in the E6 (comprising special envoys from the US, Russia, China, the UK, France and the EU). Other countries or bodies are active in neighbouring Chad (the European Commission on Chadian internal political dialogue; France, Ireland, Finland, Norway, Poland, Austria, Portugal, Croatia because they serve in MINURCAT – the UN Mission in the Central African Republic and Chad).

## Recommendations to the EU

The EU should use its political leverage thanks to the existing involvement of its Member States and Special Representative in various diplomatic fora.

Because the EU will observe elections and fund a significant part of an incredibly expensive electoral process, its Member States (and taxpayers) have the right to demand minimum accountability from the parties for democratic and credible elections.

1. Mikhail Margelov, Opening statement at the Moscow conference on Sudan, 6-7 October 2009.

The EU's recognition of a future South Sudanese state emerging through a CPA process will be absolutely crucial for the legitimacy of the new state in Africa.

The EU's expected financial and expert contribution to a major state-building exercise through the UN, the World Bank and its own programme in Southern Sudan would be tremendous and will give it the right to demand accountability from South Sudan on issues like corruption.

## CONCLUSION: COORDINATION ON POST-2011 ARRANGEMENTS AND OPTIONS FOR THE EU

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With the secession of the South from Northern Sudan becoming the most probable scenario, experts agree on the need for the parties to negotiate post-CPA arrangements for peaceful co-existence. These arrangements should cover, apart from agreements on the distribution of oil revenues and in addition to sovereignty transfers in the security and political fields, a range of other economic issues such as water, infrastructure and networks (energy, transport, telecommunications), state-owned industrial assets, remittances, currency and debt. There is also a consensus regarding the need for a high-level united and – most crucially – coordinated international push and follow-up to ensure this politically negotiated transition towards peaceful co-existence. Indeed, the more divided the international community is, the easier it will be for spoilers in Sudan to escape their responsibility to uphold their commitments to dialogue and peace.

The leadership of the US in the process, because of the weight of its sanctions policy and its current proactiveness, is obviously vitally important, but it will not be enough, even if there is personal involvement by politicians at the highest level in Washington on arrangements for future peaceful co-existence. Other world players, who have their own global responsibilities and experiences of state partition, assets transfers or transformations in regional governance, must be engaged too. Efforts or compromises made by Russia and China in this realm could be incentivised by several factors. First, beyond their interests in regional stability *per se*, they could also be offered rewards in the long term (e.g. by providing them with investment or cheap raw material imports opportunities). Second, their cooperation could be secured in exchange for concessions from the West either in other parts of the world (e.g. Afghanistan, Africa) or in relation to global issues (e.g. global governance, disarmament, trade or climate change), thereby serving broader political and economic ambitions. The very fact that Russia and China agree to cooperate with other powers in the framework of the E6 (an *ad hoc* diplomatic format made up of special envoys from the P5 and the EU) shows their support for multilateral approaches.<sup>1</sup> However, E6 statements are not sufficient and should prefigure many more ‘out-of-the-box’ proactive initiatives to aggregate and anchor international peace efforts. For instance, diplomacy regarding energy but also land tenure issues must be fully deployed for the sake of peacemaking in Sudan and not only to guarantee that the oil industry or other economic activities will continue to function in the event that security deteriorates.

Key investors (India, Malaysia, South Korea), customers (Japan) and potential transit countries (Ethiopia, Kenya, Uganda) should be approached by E6 members and

1. E6 Moscow and Doha statements, available on EUSR Torben Brylle’s webpage at [www.consilium.europa.eu](http://www.consilium.europa.eu).

encouraged to play a strong role in convincing the parties to strike deals on future co-existence. Similarly, the EU could campaign for and convene or host an E6 conference designed to help the parties draft a road map for Sudan's future before elections take place in 2010. Such a road map could include the signing of additional documents comprising benchmarks on elections and a referendum, the definition of the appropriate framework to negotiate post-secession issues (it could be a specific peace conference or a transitional process) and a division of tasks between external powers, multilateral organisations and donors.

The E6 is one format among others. Some experts recommend the CPA Troika (the US, the UK and Norway) to take the lead, others consider that a broader contact group (with the UN and regional organisations) would be more suitable. The potential role of Norway or the Netherlands is also cited as a possible option whose added-value derives from the neutrality of these states. African states and organisations should be at the forefront of these efforts supported by the international community. Sudan's future will strongly influence theirs but exactly which actors from the continent (the AU, IGAD, neighbouring states), should be represented and how is still unclear. The fact that the remit of the African Union High Level Panel on Darfur under Thabo Mbeki has broadened to cover the CPA and Sudan's democratic transformation indicates the importance of the matter for the AU. The European Union therefore should stress again the importance of its partnership with the African Union and be open to supporting Thabo Mbeki in his peacemaking initiatives. It is important that the EU Special Representative should have strong working relations with President Obama's Special Envoy and President Mbeki. Similar and coordinated high-level involvement with Arab states would be equally welcome.

At this stage, the most important step that needs to be taken therefore is to move Sudan higher up on the agenda of heads of state and governments in order to launch an upgraded international diplomatic process. Such a dynamic will need to have strong public visibility through regular joint or complementary statements maintaining constructive pressure on the parties.

The EU has great potential to be helpful and bring added value, preferably inside the E6 or via any other appropriate format endorsed by the AU, to discussions on Sudanese post-2011 arrangements. The EU and its Member States have a lot of experience of the various challenges faced by contemporary Sudan and Africa: the consequences of the creation of a new state like Kosovo on the governance and the politics of regional organisations; the experience of state partition (e.g. the division of Czechoslovakia into the Czech and Slovak Republics – and, conversely, the example of German reunification); the transfers of sovereignty and assets from a bigger political entity in the case of Baltic states leaving the Soviet Union. The expertise is there and could be used in a tailored manner in the case of Sudan in tandem with Sudan-based expertise and knowledge.

The EU should immediately appoint a team of experts, in support of the EU Special Representative, to make concrete proposals before the 2010 elections on the follow-

ing issues: the division and transfer of state assets and in particular an internationally supported negotiation framework. This framework would need to include training of the parties, external incentives, with a negotiation programme, schedule and methodology.

Hopefully key democratic benchmarks will be applied during the elections, referenda and public consultations. The EU could then play a leading role among the donors in the South as recommended in this report, and would be able to supply irreplaceable technical, legal and political expertise – in which case there is no reason why it would not have a corresponding political weight in other negotiations.

At home, the EU needs to clarify its position and become more coherent. While diplomatic rhetoric may still refer to making unity attractive, the assumption of Southern secession needs to be endorsed pragmatically. The EU should adopt a ‘peaceful co-existence strategy’ based on the recommendations of this report and using all existing European tools in a more coordinated manner. It could then advocate, via the European Council and other statements by the heads of state and government, for a strong internationally backed-up policy of dialogue promotion.

To reach this objective, Member States need to mainstream their policies by maximising the role played by their national envoys in a single EU framework. The other option would be to delegate the negotiations to one Member State. However, in a post-Lisbon context where the European Commission’s political role is increasing, it would make more sense to optimise the synergy of national and EU envoys by gathering them in one EU team. The current team of the EU Special Representative could be reformed by the inclusion of British and French Special Envoys, beefed up with additional staff from other Member States and the Commission, and significantly empowered. By doing so, the Member States would create a *de facto* embryonic external service unit for Sudan closely piloted by the new High Representative and able to play a truly significant role in cooperation with other actors involved and in support of the parties.

## Abbreviations

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|              |  |
|--------------|--|
| <b>ABC</b>   | Abyei Border Commission  |
| <b>APPC</b>  | All Political Parties Conference   |
| <b>ASF</b>   | AU Standby Force   |
| <b>AU</b>    | African Union  |
| <b>AUPD</b>  | African Union High-Level Panel on Darfur   |
| <b>AUPSC</b> | African Union Peace and Security Council   |
| <b>bb1</b>   | barrels of oil   |
| <b>bpd</b>   | barrels per day  |
| <b>CNPC</b>  | China National Petroleum Corporation   |
| <b>CPA</b>   | Comprehensive Peace Agreement  |
| <b>DDR</b>   | Disarmament, Demobilisation and Reintegration                                      |
| <b>DPA</b>   | Darfur Peace Agreement   |
| <b>DRC</b>   | Democratic Republic of the Congo   |
| <b>DUP</b>   | Democratic Unionist Party  |
| <b>E6</b>    | <i>ad hoc</i> diplomatic format comprised of special envoys from the P5 and the EU |
| <b>ESPA</b>  | East Sudan Peace Agreement   |
| <b>EUSR</b>  | European Union Special Representative  |
| <b>FFMAC</b> | Fiscal and Financial Monitoring and Allocation Commission                          |
| <b>GDP</b>   | Gross Domestic Product   |
| <b>GNPOC</b> | Greater Nile Petroleum Company   |
| <b>GNU</b>   | Government of National Unity   |
| <b>GoS</b>   | Government of Sudan  |
| <b>GoSS</b>  | Government of Southern Sudan   |
| <b>ICC</b>   | International Criminal Court   |
| <b>IDP</b>   | Internally Displaced Person  |
| <b>IGAD</b>  | Intergovernmental Authority on Development   |

|                 |  |
|-----------------|--|
| <b>IGADD</b>    | Intergovernmental Authority on Drought and Development |
| <b>IMF</b>      | International Monetary Fund                            |
| <b>J/IU</b>     | Joint Integrated Unit                                  |
| <b>JEM</b>      | Justice and Equality Movement                          |
| <b>LAS</b>      | League of Arab States                                  |
| <b>LRA</b>      | Lords Resistance Army                                  |
| <b>MINURCAT</b> | UN Mission in the Central African Republic and Chad    |
| <b>NCP</b>      | National Congress Party                                |
| <b>NDA</b>      | National Democratic Alliance                           |
| <b>NIF</b>      | National Islamic Front                                 |
| <b>NISS</b>     | National Intelligence and Security Services            |
| <b>NOC</b>      | National Oil Company                                   |
| <b>P5</b>       | Permanent members of the UN Security Council           |
| <b>PCA</b>      | Permanent Court of Arbitration                         |
| <b>PDOC</b>     | PetroDar Operating Company                             |
| <b>PPP</b>      | Purchasing Power Parity                                |
| <b>PSC</b>      | Peace and Security Council                             |
| <b>SAF</b>      | Sudan Armed Forces                                     |
| <b>SPLA</b>     | Sudan People’s Liberation Army                         |
| <b>SPLM</b>     | Sudan People’s Liberation Movement                     |
| <b>SSDF</b>     | South Sudan Defence Forces                             |
| <b>UN</b>       | United Nations   |
| <b>UNAMID</b>   | United Nations-African Union Mission in Darfur         |
| <b>UNMIS</b>    | United Nations Mission in Sudan                        |
| <b>UNSC</b>     | United Nations Security Council                        |
| <b>USG</b>      | Under Secretary-General                                |
| <b>WNPOC</b>    | White Nile Petroleum Operating Company                 |

## Notes on the contributors

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**Suliman Baldo** is director of the Africa programme at the International Center for Transitional Justice (ICTJ). He has worked extensively in the Democratic Republic of the Congo (DRC), Ethiopia, Eritrea and the Sudan. He also spent seven years at Human Rights Watch (HRW) as a senior researcher in the Africa division. Most recently he served as director of the Africa programme at the International Crisis Group (ICG).

**Maria Gabrielsen** is a Ph.D candidate at CERI (Centre for International Studies and Research) SciencesPo in Paris and also teaches in the Master's degree programme on Conflict Analysis and Peacebuilding at the Institute of Political Studies in Lille. Her research focuses on the internationalisation processes of the conflicts in South Sudan and Darfur and the effects on their resolution.

**Fabienne Hara** is Vice-President for Multilateral Affairs at International Crisis Group and oversees advocacy at the United Nations and the Security Council in New York. She has over fifteen years of experience in African conflict management and resolution issues and worked for the UN, Harvard University, the Council on Foreign Relations and International Crisis Group.

**Damien Helly** is Research fellow at the EU Institute for Security Studies where he deals with conflict prevention and crisis management, and linkages between security, development and governance, mainly in sub-Saharan Africa. He recently co-edited *European Security and Defence Policy: the first 10 years (1999-2009)* (EUISS, Paris, October 2009).

**Fouad Hikmat** was the previous Horn of Africa Director at International Crisis Group and has extensive experience in development of Humanitarian, Early Recovery and Post-conflict strategies and socio-political analysis in conflict zones. Previously, he managed and coordinated several humanitarian and post-conflict programmes as well as working as regional adviser and consultant in 14 countries in Africa and Asia with several international NGOs. He is currently the African Union and Sudan Special Advisor at International Crisis Group, and takes part in the management of ICG's work in relation to Sudan and the AU.

**Michael Kevane** is Associate Professor and Chair of the Economics Department at Santa Clara University, California. He is past president of the Sudan Studies Association, and co-director of Friends of African Village Libraries. His recent research focuses on how libraries promote reading, with articles published in *Libri*, *World Libraries* and *Bulletin des Bibliothèques de France*. He is co-editor of *Kordofan Invaded: Peripheral In-*



*corporation and Social Transformation in Islamic Africa* (Brill, 1998) and author of *Women and Development in Africa: How Gender Works* (Lynne Rienner, 2004).

**Roland Marchal** is Research Fellow at CERI (Centre for International Studies and Research), Sciences Po. His research topics currently focus on new actors in Africa (China, India, Brazil), armed conflicts in Central Africa and the countries of the Horn of Africa and power politics in Africa. He participates in the CERI Transversal Project ‘Historical Trajectories of the State.’

**Tim Murithi** is the Programme Head of the Peace and Security Council (PSC) Report Programme based in the Institute for Security Studies (ISS) Addis Ababa Office. He previously worked at the University of Bradford (UK), Centre for Conflict Resolution (South Africa), and United Nations Institute for Training and Research (UNITAR). His publications on peacebuilding and African peace and security architecture include *The Ethics of Peacebuilding* (Edinburgh University Press, 2009) and *The African Union: Pan-Africanism, Peacebuilding and Development* (Ashgate, 2005).

**Luke Patey** is a Ph.D Fellow at the Copenhagen Business School and the Danish Institute for International Studies. His research focuses on the influence of oil development on politics and the rising political and economic presence of India and China in Africa. He has written several articles on the oil sector in Sudan, including ‘Against the Asian Tide: The Sudan Divestment Campaign’ (*Journal of Modern African Studies*, vol. 47, no. 4, 2009), ‘State Rules: Oil Companies and Armed Conflict in Sudan’ (*Third World Quarterly*, vol. 28, no. 5, 2007) and ‘A Complex Reality: The Strategic Behaviour of Multinational Oil Corporations and the New Wars in Sudan’, *DIIS Report* no. 2, 2006.





European Union Institute for Security Studies

[www.iss.europa.eu](http://www.iss.europa.eu) • [info@iss.europa.eu](mailto:info@iss.europa.eu)

This report is the outcome of a research project launched by the EUISS in 2008. It is based on the discussions that took place at a workshop hosted by the Institute on 8-9 June 2009, organised with the support of the Swedish presidency of the EU and attended by around 40 experts and practitioners.

The present report consists of an exploration of the key issues involved, based on the conclusions reached during the workshop, and additional analysis that the EUISS has undertaken or commissioned from additional authors. Specifically, the following chapters or parts of the report were written by: Suliman Baldo (*Darfur and whole-of-Sudan scenarios in post-referendum turmoil*), Maria Gabrielsen (*Post-2011 challenges in oil-rich Abyei/Asian oil diplomacy in Sudan?*), Fabienne Hara (*International actors in Sudan: the urgent need to unite behind an all-Sudan strategy*), Damien Helly (*Executive Summary, Introduction, Conclusion, Ongoing initiatives to facilitate dialogue between the parties on post-CPA challenges*), Fouad Hikmat (*The need for short-term solutions and agreements*), Michael Kevane (*Macroeconomic trends and scenarios for post-referendum Sudan*), Roland Marchal (*The Northern elite, regime scenarios and the ICC*), Tim Murithi (*The regional dimensions of post-referendum Sudan: The AU and IGAD, and neighbouring States*), Luke Patey (*Trends in the oil sector and post-referendum scenarios*). We would also like to acknowledge the contributions of Mustafa Babiker, Ruth Iyob, Gerard McHugh and Dave Mozersky who presented background papers during the workshop.

Institute for Security Studies  
European Union  
43 avenue du Président Wilson  
75775 Paris cedex 16  
tel.: +33 (0)1 56 89 19 30  
fax: +33 (0)1 56 89 19 31  
info@iss.europa.eu  
<http://www.iss.europa.eu>

Director: Álvaro de Vasconcelos

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ISSN 1830-9747

Published by the EU Institute for Security Studies and printed in Condé-sur-Noireau (France) by Corlet Imprimeur.

Graphic design by Metropolis, Lisbon.