



AFRICAN UNION HIGH-LEVEL IMPLEMENTATION PANEL FOR SUDAN

September 21, 2012.

**Proposal on
the Final Status of the Abyei Area.**

General Principles

1. The Parties reaffirm their commitment to the following:
 - a. The Abyei Protocol, Chapter IV of the Comprehensive Peace Agreement of 9 January 2005;
 - b. The ruling of the Permanent Court of Arbitration on delimiting the Abyei Area of 22 July 2009;
 - c. The Agreement on Temporary Administrative and Security Arrangements for the Abyei Area of 20 June 2011.
2. The following general principles shall inform the Final Status of the Abyei Area:
 - a. Abyei is a bridge between Sudan and South Sudan, linking the people of both countries;
 - b. The territory is defined as the area of the nine Ngok Dinka chiefdoms transferred to Kordofan in 1905, as defined by the ruling of the Permanent Court of Arbitration on 22 July 2009;
 - c. The Misseriya and other nomadic peoples retain their traditional rights to graze cattle and move across the territory of Abyei.

Immediate Steps

3. The Parties shall implement the remaining provisions of the Agreement on Temporary Arrangements.
 - a. The Parties shall establish all institutions, as stipulated in the Temporary Agreement; and,
 - b. The Abyei Joint Oversight Commission shall establish a police service, including a special unit to deal with issues arising from pastoralist migration and a special unit suitably trained for the protection of the Diffra oil installations.

Special Status of Abyei

4. Consistent with the principle that Abyei is a bridge between Sudan and South Sudan, Abyei shall be established as a State with special status. In the event that the Referendum determines that Abyei is part of Sudan, it shall be accorded a special status in the governance system of the Republic of Sudan. In the event that the Referendum determines that Abyei is part of South Sudan, it shall also be accorded a special status in the governance system the Republic of South Sudan.
5. This special status shall have the purpose especially to ensure peaceful coexistence and friendly cooperation between the Ngok Dinka and Misseriya communities of the Abyei Area.
6. Depending on the outcome of the Referendum:
 - a. the Republic of Sudan shall recognise the definition of Abyei Areas as the historic land of the Ngok Dinka, and the predominant role of the Ngok Dinka in Abyei Area, their right to civic and political participation in Abyei State and the protection of the individual rights guaranteed to all persons; and,
 - b. the Republic of South Sudan shall recognise the historic role of the Misseriya in the Abyei Area, including the right of Misseriya residing in the Area to civic and political participation in Abyei State and the protection of the individual rights guaranteed to all persons.

Soft Borders

7. Consistent with the general principle of a soft border between Sudan and South Sudan, there shall be a soft border between Abyei and the adjacent localities of Southern Kordofan, and between Abyei and the adjacent states of South Sudan, enabling free movement of people, livestock and goods in both directions, according to established

migration and travel routes, and subject to the laws of both countries concerning the carrying of arms.

Pastoralist Rights

8. Consistent with the general principle of soft border, the customary rights of pastoralists to migrate, utilize pasture and water, and carry out related social and economic activities, will be protected by law. South Sudan shall also guarantee by law the customary rights of all pastoralists to migrate, and utilize pasture and water, within South Sudan in accordance with their traditional seasonal migratory routes.
9. Sudan and South Sudan shall jointly establish, under the Joint Border Commission, a committee on cross-border migratory populations to promote peaceful interaction between the migratory and settled communities along the entire border between the two States and to protect the rights of both communities. The committee shall include equal representation from the relevant migratory and settled communities along the border between the two countries.
10. The Republic of South Sudan shall ensure the security of migratory pastoralists from Sudan, while they are present in the territory of South Sudan on a seasonal basis, providing them with police protection. Pastoralists may be permitted to carry personal weapons solely for the purposes of self-protection and guarding their livestock, in accordance with the modalities determined by the committee referred to in paragraph 9 of this Agreement.
11. The Committee shall define the specific rights and responsibilities of migratory populations that cross the border, as well as those of the host communities. It shall, in consultation with the other organs of government, establish a schedule and map of agreed migration routes.
12. The Committee shall also establish and maintain a Border Communities Indemnity Fund. In the event that any person from the relevant communities along the border between Sudan and South Sudan feels that the rights herein protected have been violated resulting in loss of livelihood or income, the injured party may seek compensation from the Indemnity Fund, in accordance with the standards and procedures established by the Committee. The Committee will adjudicate claims and issue payments, pursuant to judgements, from the indemnity fund. The residents of Abyei and members of adjacent communities including pastoralists shall be entitled to make claims to the Indemnity Fund.

Revenue Sharing and Economic Development

13. The governments of Sudan and South Sudan shall jointly submit a request to international donors to assist in drawing up a plan for the social and economic development of Abyei and the adjacent localities both in Southern Kordofan and the adjoining states of South Sudan. This plan shall be based upon (a) the return and rehabilitation of all persons displaced by conflict and (b) a Common Economic Development Zone (CEDZ) encompassing these areas.
14. The Abyei Administration shall host a development conference to draw up the plan for the CEDZ.
15. The objectives of this plan for the CEDZ shall include:
 - a. accelerated social and economic development of all parts of Abyei on an equitable and sustainable basis; and,
 - b. accelerated economic development of the adjoining areas of Southern Kordofan, focusing on the development of permanent water provision for livestock, improved pasture, and sustainable agriculture, with the objective of reducing the reliance of migratory pastoralists on seasonal migration to Abyei and the adjoining states of South Sudan.
16. A Common Economic Development Corporation (CEDC) shall be created to implement these objectives.
17. Until the Referendum, the CEDC will be financed by 50% of the revenue from the oil resources of Abyei, budgetary allocations from Sudan and South Sudan, and international donor support.
18. After the Referendum, the following provisions relating to sharing the revenue from oil extracted from Abyei will be applied:
 - 30% to Abyei State;
 - 20% to adjoining localities of Southern Kordofan State (for the CEDC or other agreed activities);
 - 50% to the national Government.

The allocations for the adjoining localities of Southern Kordofan State will remain in place for 5 years after which the national Government may make other arrangements.

Abyei Joint Oversight Committee

19. The Abyei Joint Oversight Committee (AJOC) shall continue in its current form, until the implementation of the Referendum decision.

20. The AJOC shall assume the following additional responsibilities:

- a. facilitating and assisting the work of the Abyei Area Referendum Commission;
- b. in coordination with the AARC, overseeing the declaration of the result of the Referendum; and,
- c. overseeing the implementation of the result of the Referendum.

21. After the Referendum the AJOC will continue to exist for three years with the following responsibilities:

- a. advising the President of the country in which Abyei is located on all matters relating to Abyei; and,
- b. promoting the guarantees associated with the special status of Abyei;.

Referendum

22. There shall be held a Referendum to determine whether the Abyei Area should be part of Sudan or South Sudan.

23. The Referendum shall be held during the month of October 2013. Voting shall be conducted over a period of three days.

24. All eligible voters shall be entitled to register and vote in the Referendum.

25. The African Union and other international partners will monitor all stages of the Referendum process.

Eligibility to vote in the Referendum

26. The residents of the Abyei Area shall be eligible to vote in the Referendum. The residents of the Abyei Area are:

- a. members of the Ngok Dinka community; and,

b. other Sudanese residing in the Abyei Area.

27. The criterion for qualifying under Paragraph 26(b) shall be permanent abode within the Abyei Area.

28. The Abyei Area Referendum Commission (AARC) shall compile the voters roll based on the criterion identified.

The Referendum Commission

29. The President of Sudan and the President of South Sudan shall jointly establish the Abyei Area Referendum Commission.

30. The AARC shall consist of five members. The President of Sudan shall appoint two Commissioners and the President of South Sudan shall appoint two Commissioners. The African Union shall, in consultation with the Presidents of the two States, appoint the chairperson of the AARC, being a person of international stature. All shall be individuals of integrity.

31. The AARC shall be responsible for all aspects of the conduct of the Referendum including ascertaining voter eligibility and compiling the voters roll. The AARC shall work with AJOC in performing its functions. The Parties will request UNISFA to facilitate the work of the AARC by providing security and logistical support.

32. The AARC shall adopt regulations to provide for appeals relating to voter eligibility decisions, and for the determination of those cases on the basis of the criteria in Paragraph 26 and 27. The AARC may consult the Abyei Referendum Facilitation Panel for an advisory opinion on any proposed regulations. The opinion of the ARFP will be advisory.

The Abyei Referendum Facilitation Panel

33. The African Union, in cooperation with other international partners, shall establish an Abyei Referendum Facilitation Panel (ARFP).

a. The ARFP shall be composed of three individuals of international stature, chosen by the Chairperson of the AU Commission, in consultation with the Presidents of the two States.

- b. The AFRP is mandated to facilitate and assist the AARC and its Chairperson to resolve any differences of opinion that may arise with respect to the planning and conduct of the Referendum.
 - c. In the event that the necessary preparations and conducive environment for the Referendum to be held in a free, fair and peaceable manner, do not exist, the AFRP may recommend to the AU Commission any ways to resolve the situation.
34. The AFRP will coordinate with the AJOC.

Implementation of the Outcome of the Referendum

- 35. The AARC shall declare the final result of the Referendum one month after the completion of the vote.
- 36. The outcome of the Referendum shall be implemented one month after the declaration of the result.

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