

## **The US Proposal to overcome the Abyei impasse**

### **Post referendum administrative, economic and security arrangements**

#### **Preface:**

1. The two parties affirm their commitments to the Abyei protocol and accept that this agreement is in accordance to the spirit of the CPA protocol. The arrangements in {part one} of this agreement shall be implemented after the end of the temporary period.
2. The two parties renew and reaffirm their commitments to conduct the Abyei referendum at the same time with that of Southern Sudan as scheduled in 9 January 2011.
3. The borders of Abyei Area is in accordance to the award of the area delineated by the PCA in July 22, 2009
4. Actual demarcation of Abyei Area
  - a) Demarcation shall start after settling the permanent status of Abyei
  - b) The border demarcation commission for North/South borders shall be responsible to do actual demarcations on the Northern border of Abyei. That will be after concluding on the processes related to the North/South borders
  - c) The Presidential border demarcation committee for Abyei shall demarcate the remaining borders of the AAA.
  - d) The demarcation committee/commission should benefit from the humanitarian offers to enable it finish tasks as agreed upon in previous arrangements/accords.
  - e) Border demarcations should be done in accordance to international tradition in a manner clearly indicating borders without making physical barriers deterring cross-border movements.
5. Rules and regulations governing cross-border movements along the North-South borders should be considered within the parameters of this agreement and any other agreements to be reached between the parties.
6. The border demarcation for Abyei shall be implemented without altering the content of this agreement and other agreements that the parties may reach regarding citizenship and rights linked to the movement of people and goods across the borders.
7. The two parties shall issue a joint statement within three (3) days after consenting to this agreement to express their commitment to implement it. After thirty (30) days high level delegation shall visit Abyei to inform and explain the agreement to the local people that include the Misseriya and the Ngok Dinka.

#### **Part I: Post CPA arrangements for Abyei**

##### **ARTICLE I: Citizenship, Settlement and Movements (transhumance)**

1. The two parties renew and affirm the principles included in the CPA and the Abyei Protocol which states that Abyei is a bridge between North and South linking the people of Sudan.
2. The two parties reaffirm the principle in the Abyei protocol and the PCA award that states that the Misseriya and the other nomadic groups shall continue to retain their

traditional grazing rights and move within the Abyei area regardless of citizenship and residence rights

3. The two parties affirm their commitments to protect the rights of non-citizens in their respective areas in accordance to local and international laws.
4. In the case Abyei became part of Southern Sudan, the following shall apply:-
  - a) Without altering final agreements on citizenship within the Southern Sudan referendum and the separation options, the Ngok Dinka and other permanent residence {staying for a whole year} of the Abyei Administrative area become eligible for Southern Sudanese citizenship.
  - b) Misseriya and other nomadic groups who do not reside permanently in the area but regularly cross the Abyei area for grazing shall retain Sudanese nationality.
5. In case Abyei retains its special status in the North, the following shall apply:-
  - a) Without altering final agreements on citizenship within the Southern Sudan referendum and the separation options, the Misseriya and the Ngok Dinka who reside within the Abyei Administrative Area are eligible for Sudanese citizenship.
  - b) If the Government of Southern Sudan considers to extend citizenship rights to any of these two populations, then this right shall not compromise their citizenship in the Sudan in case they have dual citizenship. The concerned government shall take necessary procedural arrangements to implement this.
6. Regardless of the referendum results, the government of Southern Sudan shall issue the Misseriya and the other nomadic groups a permanent document licensing them to continuously enter and exit Southern Sudan including if it becomes part of the South for the above mentioned reasons and in accordance with this agreement. This right may include options for permanent stay in Abyei or the South in accordance to citizenship arrangements after a referendum agreed upon by the two parties.
  - a) The right of the Misseriya and other pastoralists groups to enter the South including Abyei if it joins the South should be included in the laws of Southern Sudan and be implemented by the Abyei Area Administration, government of Southern states and the GOSS.
  - b) The GOSS shall issue necessary documents to implement this agreement
7. The right of the Misseriya and other pastoralist groups to enter and exit Southern Sudan should not affect in any case their citizenship and rights in the Sudan including their voting rights.

## PART II: Natural Resources

1. Without affecting the articles of the final natural resources agreement for the post referendum period, the oil revenue for the oil produced in Abyei shall be shared between the government of Sudan, GOSS and the Abyei, the Ngok and the Misseriya.
2. In the case Abyei becomes part of Southern Sudan, the oil revenue from the oil field currently producing and those that would produce in the future shall be shared as follows:-
  - a) 50% for GOSS

- b) 42% for Government of Sudan
  - c) 4% for Abyei area-to be utilised as detailed below
  - d) 2% for Ngok- to be utilised as detailed below
  - e) 2% for Misseriya- to be utilised as detailed below
3. In the case Abyei retains its special status in the North, the oil revenue from the oil field currently producing and those that would produce in the future shall be shared as follows:-
- a) 50% for Government of Sudan
  - b) 42% for GOSS
  - c) 4% for Abyei area-to be utilised as detailed below
  - d) 2% for Ngok- to be utilised as detailed below
  - e) 2% for Misseriya- to be utilised as detailed below
4. the 4% from the oil revenue allocated to the Abyei area shall be shared as follows:-
- a) 2% shall be administered through the Abyei Administration to be utilised in running its affairs (government and other activities) that benefits all the residence of the area.
  - b) In the case Abyei becomes part of Southern Sudan so the additional 2% shall be administered through the AAA for the benefit of the Misseriya and the other pastoralist groups that regularly cross the area. This fund shall be spent in consultations with the Advisory Council of the Nomads as explained below
  - c) In the case Abyei retains its special status in the North; the additional 2% shall be administered through the AAA for the interest of the Ngok Dinka in the area. The fund shall be spent in consultation with the Council of Ngok Dinka as explained below.
5. The 2% of the oil revenue allocated for the Ngok Dinka shall be specialised for an agreed upon mechanism in accordance to national laws adjudicated and administered by the traditional chieftainship of the Ngok Dinka to be utilised for development projects to benefit the Ngok. These projects shall be further developed through contributions given by the bigger Ngok community that include women and youth groups.
- a) Projects implemented within the AAA shall be implemented through consultation with the Abyei Administration.
6. The 2% of the oil revenue allocated to the Misseriya shall be specialised for an agreed upon mechanism in accordance to national laws adjudicated and administered by the traditional leadership of the Misseriya residing in Muglad area of Southern Kordofan to be utilised for development projects to benefit the Misseriya. These projects shall be further developed through contributions from the bigger Misseriya community that include women and youth groups.
- a) Projects implemented within the AAA shall be implemented through consultations with the Abyei Administration
  - b) Projects implemented within Southern Kordofan shall be executed through consultation with the state authorities of Southern Kordofan

### ARTICLE III: Governance

1. In the case Abyei becomes part of Southern Sudan the GOSS shall make a separate state for Abyei
2. In this case the AAA shall become Abyei State Government headed by an elected Governor and includes an elected legislative council.
3. In the case Abyei retains its special status in the North, then the article in the protocol dealing with administration shall continue to be the same apart from changes in articles related to this agreement
4. Regardless of the referendum results, executive and legislative elections shall be held for Abyei within a year from the end of the temporary period.
5. Before the election the current appointed government shall remain in place as a temporary government.
6. In the case Abyei becomes part of South Sudan a Nomad Advisory Council shall be established in the AAA made up of the Misseriya and other nomadic groups who regularly cross the Abyei Area.
  - a) The Nomads Advisory Council shall consult the AAA regarding perennial transhumance through Abyei as well as the allocation of the 2% oil revenue for the Misseriya and the other nomads.
  - b) The Nomad Advisory Council shall review general recommendations to the AAA on expenditure of the above revenue allocation and other concerns affecting the nomads.
  - c) The Chair of the Nomad Advisory Council shall hold the profile of Senior Advisor for Nomads affairs within the AAA
7. In the case Abyei retains its special status in the North, then a Ngok Dinka Advisory Council shall be formed within the AAA made up of Ngok representative
  - a) The Ngok Dinka Advisory Council shall consult the AAA regarding concerns and interests of the Ngok community as well as the allocation of the 2% oil revenue for the Dinka Ngok.
  - b) The Ngok Dinka Advisory Council shall review general recommendations to the AAA on expenditure of the above revenue allocation and other concerns affecting the Ngok community.
  - c) The Chair of the Ngok Dinka Advisory Council shall hold the profile of Senior Advisor for Ngok Dinka affairs within the AAA

#### ARTICLE IV: Economic Issues

1. Aware of the importance of continuous trade and commerce between North and South and the historic cross-border movement of people and goods through Abyei. The two parties affirm their commitments to policies that would reflect safe and easy borders enabling free movement of goods and people.
2. The Misseriya and other nomads who cross to Southern Sudan through Abyei will not be subject to taxes on private property which include their cattle
3. Both parties shall work to reduce barriers for cross-border economic activities for the interests of the people living at both sides of the borders. Both parties shall ease cross border trade by avoiding high taxes related to exported commodities, and ensure that

clearances are not delayed by checks as well as to create a transparent system for taxes for receiving import and export revenues in accordance to the national regulations.

4. The two parties shall facilitate the establishment of transport, telecommunications and telephone system that links Abyei effectively with the North and the South.
5. This area should be made a model to extend to the other states along the North-South borders if the two parties agreed to it and to be part of the post-referendum negotiations.

## ARTICLE V: Security Cooperation

1. Regardless of the results of the Referenda for Abyei and Southern Sudan, the two parties agree to establish and implement effective cross-border security mechanisms in accordance to the tradition of international law in order to deter security threats, protect civilians and ease secure transhumance.
2. Security within AAA as well as protecting transhumant routes and protection of minority groups is the sole responsibility of AAA.
3. The two parties agree on the following security measures:-
  - a) The Joint Integrated Police Unit shall continue to follow instructions issued from the AAA and continue to carry its functions as a civil law enforcement institution responsible for law and order within AAA for the next two years after the temporary period. In the case that Abyei becomes part of Southern Sudan the members of the force who come from Northern Sudan have an option of either staying in the south and get a Southern Sudanese citizenship or return to Sudan and retain their citizenship. In the case that Abyei retains its special status in the north; the members of the force from Southern Sudan have an option of either remaining within the Sudan and retain the Sudanese nationality or return to the south and acquire the nationality of the South. Pastoralist communities have the right to carry personal arms in respect of local regulations during migration seasons and along the traditional routes. These arms shall be declared by the leaders who shall accompany any nomadic group and upon request from the Joint Integrated Police Unit at the crossing point or (through those responsible to execute local laws after the Disarmament of the Joint Integrated Units) in accordance with the powers conferred upon the AA Administrator Civil Security Forces of Southern Sudan.
4. The parties request an international body to monitor these security arrangements that include border crossing procedures and deployment of forces along the borders.

## **PART II: Abyei referendum**

### Article VI: The referendum

1. The citizens of Abyei shall choose to either:

- a) Retain its special administrative status in the North or
- b) Become part of Southern Sudan

### Article VII: Eligibility of voters

1. As detailed in the Abyei protocol the residents of the area who are eligible to vote in the referendum are the members of the Ngok Dinka and other Sudanese putting into consideration,
  - a) The CPA protocol for Abyei definition that considers the area of the nine Ngok Dinka chieftainships in 1905.
  - b) The objective of the Abyei protocol rendering the Ngok Dinka the right to determine their permanent status in the North or the South.
  - c) The specific and unique nature of referenda as compared to elections in relations to international standards with regards to eligibility of voters. The two parties agree to the objective of this referendum that the {other Sudanese residing in the area} shall include the Sudanese who decided to permanently reside in the Abyei Administrative area. Permanent residence in this case shall be those who resided in the Abyei Administrative Area for a period of one year during the time of voters' registration. This includes residence during the current rainy season. It would be upon those "other Sudanese residing in the area" to prove their continuous residence in the Abyei area through this period through- school records, tax records, election records and other registers, inter alia {among other criteria}. The Abyei Referendum Commission shall specify the registrations procedures which shall be declared in consultations with the leaderships of the Ngok Dinka and the Misseriya. The registration shall be done through International assistance as explained earlier.

### Article VIII: Referendum Commission

The two parties agree that the Abyei referendum Commission shall be appointed by the Presidency in a period not later than October 4, 2010 and shall be directed to immediately embark on immediate preparations for voter registrations as part of this agreement.