

SUDAN  
**SECRETARY-GENERAL'S PANEL**  
**TERMS OF REFERENCE**

**I. Background:**

- a. The Comprehensive Peace Agreement (CPA) requires that two referenda are to be held by 9 January 2011: one in which the people of Southern Sudan vote for unity or secession, and the other which determines whether the area of Abyei remains in the North or becomes part of the South. The former is the crucial culmination of the CPA process. The latter will take place in a territory which, although relatively much smaller and lightly populated, is highly contested and a potential flashpoint.
- b. The long-promised self-determination of Southern Sudan is of historic significance, with vast consequences for Sudanese, southern and northern, for neighbouring countries and for Africa as a whole. An aborted referendum process, or one which is seriously flawed with the legitimacy of the outcome disputed, could have devastating consequences, to the extent of a possible unilateral declaration of independence and/or return to war.
- c. The process leading to the April 2010 elections highlighted deficits of capacity and infrastructure in Southern Sudan and Abyei, where the political environment remains fragile. The lack of infrastructure across Southern Sudan is acute; in Abyei it is all but non-existent. These logistical challenges are compounded by the rainy season, which ends in the fall.
- d. Uncertainty surrounds the identification and registration of Southern Sudanese eligible to participate in the Southern Sudan Referendum, especially for those who reside in Northern Sudan and in other countries. In addition, regarding the Abyei referendum, besides the fact that controversy exists on voter eligibility, there is no provision for registration or voting outside the area. The IOM is expected to support the referendum process outside Sudan, but criteria for the registration and voting of Southern Sudanese outside Sudan has also not been clarified.
- e. In a letter to the Secretary-General dated 17 July 2010, the parties requested the UN to provide financial, technical, and logistical assistance as well as a monitoring body as stipulated in the CPA. In accordance with standard practice, the UN does not usually monitor the electoral process in which it also provides technical assistance. In this case however, the stakes and risks of the South Sudan referendum are extremely high for peace and stability not only in Sudan, but also the region and the continent. It is essential that the UN supports the referenda process to the maximum extent possible, within its mandate and capability, given the level of investment that the UN has made to ensure the implementation of the CPA thus far and the far-reaching implications for the country and the region. The monitoring body will be an instrument for building trust in the process and acceptability of the outcome.

## DRAFT

- f. The monitoring group should be a separate entity from UNMIS to distinguish it clearly from the role of the Mission in the implementation of the CPA, but UNMIS will give full administrative support in the day-to-day operations of the Panel and its staff. It is also important that the monitoring group is distinct from the technical, logistical, and security advisory support UNMIS will provide to the Referendum Commissions and other Sudanese authorities, so that the group can raise key concerns without undermining the Mission's support for the referenda.

## II. Tasks and responsibilities of the Panel

- i. The Panel shall visit Sudan at regular intervals – at times to be determined by the Panel in consultation with the UNMIS SRSG and the UN Under-Secretary-General of the Department of Political Affairs, while keeping the Under-Secretary-General of the Department of Peacekeeping Operations informed. The Panel shall be expected to visit the field at least to the State level should the need arise.
- ii. The Panel will monitor key referenda processes, including voter registration, exhibition and challenges, campaigning, polling day, count, tabulation and any adjudication process of the referendum for Southern Sudan and Abyei, mainly through its Field Reporting Officers and during their visits to Sudan.
- iii. The Panel will assess information related to the referendum processes, including the political and security situation on the ground. In conducting its assessment, the Panel will endeavour to gather information from a broad representation of stakeholders (political parties/leaders, media, civil society organizations, government, members of parliament, human rights organizations, diplomatic community, national and international observer groups, regional organizations and possibly representatives of neighbouring countries, etc), liaising closely with observer groups and paying special attention to the issues affecting women and traditionally marginalized groups.
- iv. Of note, no specific benchmarks will be utilized to assess the process. Instead, the Panel will use field reports to guide it in its diplomatic efforts and to suggest preventative or corrective measures that will enhance the process and/or mitigate potential flash points or areas of disagreement between the parties and other major stakeholders.
- v. After each visit the Panel will issue a confidential report to the Secretary-General. Reports should contain specific recommendations for action based on their political assessment of the situation on the ground, including political and security environments, and broadly the technical readiness for the referendums.
- vi. The Panel may issue periodic statements on its assessment of the situation on the ground and major issues to be resolved, following consultations with the SRSG of UNMIS, Under-Secretaries-General of DPA and DPKO, and upon the approval of the Secretary-General.
- vii. The Panel shall have the discretion to intervene, using its good offices, with stakeholders should the Panel deem it necessary and in consultation with the UNMIS SRSG.
- viii. The Panel, while separately accountable to the Secretary-General, shall consult regularly with the UNMIS SRSG, including before interventions as described in vii above;
- ix. The Panel will be assisted by a Support Office in Khartoum, to be staffed by a small number of staff with relevant expertise. The Support Office will prepare and brief

## DRAFT

members of the Panel, undertake to arrange all of the Panel's scheduling and travel/logistical support in coordination with UNMIS, and assist in the drafting of the Panel's reports to the Secretary-General.

- x. The Panel shall have access to up to twenty Field Panel Representatives at the state level in most parts of the country, who will be its eyes and ears, and who will report through their respective Coordinators in their areas of responsibility to the Panel's Support Office in Khartoum.
- xi. The Panel shall encourage stakeholders to engage the formal dispute resolution mechanisms established for the referendum processes.
- xii. Following the referenda, the Panel shall provide a report to the Secretary-General on the conduct of the referenda, including an assessment of whether the process was sufficient to determine the will of the Southern Sudanese as required by the CPA, and whether the announced results reflect that will. This assessment will be based on information collected on the ground, such as from key interlocutors including national and international observers.

### **III. Duration:**

The Panel will be in place for the entire duration of voter registration, including the exhibition and challenges, campaigning, voting and counting of the referendum. It is envisaged that the Panel will visit Sudan four to six times for a period of at least one week each time.

