

Report on the conference

**‘SUDAN’S ROAD TO PEACE:
THE EUROPEAN DIMENSION’**



European Coalition
on Oil in Sudan (ECOS)

*Tuesday, June 24, 2003, 13.00-17.00 hrs.
European Parliament, Brussels, room ASP 1 E 2*

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Introduction

Not since 1983 has Sudan been so close to peace. On June 20, 2002, the Government of Sudan and the SPLM signed the Machakos Protocol, followed by the October 15, 2002 Memorandum of Understanding on the Cessation of Hostilities. Despite slow progress in the IGAD-sponsored peace negotiations and despite violations of the cease-fire agreement, a final peace agreement is expected to be reached by the end of 2003. It is timely now to reflect on Europe's role in the next phase of the process.

European Union's policy on Sudan is focussed on achieving peace. It is holding a political dialogue with the Sudan, with the aim of normalising relations, and is preparing for allocations under the 9th EDF as well as unutilised resources under previous EDFs and the Stabex entitlements as soon as a peace agreement will be signed. Meanwhile, the political dialogue produces only mixed results. "While some improvement has been made in the areas currently covered by the EU-Sudan political dialogue - notably human rights, democracy, the rule of law and good governance - the situation regarding all of these remains profoundly unsatisfactory." (*European Parliament resolution on human rights in Sudan*, November 21, 2002). Whatever the outcome of the peace process will be, to achieve its goals, the EU will have to show continued commitment, and review its focus and a framework for action.

On June 24, 2003, The European Coalition on Oil in Sudan, uniting over 80 European development and human rights organisations, held a conference on Europe's role in the Sudanese peace process. The purpose of the meeting was to discuss key issues of European concern, notably

- How to benchmark effectively the EU-GoS political dialogue?
- How the Cotonou Agreement mechanisms can best contribute to good governance, democracy, and respect for human rights in Sudan?
- How to ensure that private sector activities foster, not rather than undermine the EU's policy objectives?

ECOS would like to thank the office of Ulla Sandbaek MEP for its help in arranging the meeting.

Conclusions:

The Peace process:

Since the IGAD peace talks restarted a lot of progress has been made. Nobody doubts that the parties are genuine in their statements on aiming at a peace agreement, as there is a lot to win by peace for everybody involved. Some crucial issues remain to be solved: e.g. detailed work on security arrangements and details concerning the cease-fire; the so-called 3 marginalised areas; details of power and wealth sharing, international guarantees and a timetable for implementation.

Although pressure is needed to get the warring parties to the negotiating table; too much pressure to come to a quick fix solution of the conflict might not best serve the interests of the people involved. A lot must happen before this agreement becomes more than a truce between two non-elected leaderships. Also, many people feel that their input is not wanted or completely ignored. The required “sense of ownership” of a peace-to-be is lacking. “People who don’t believe in peace will not build it. And if they don’t work for it it will definitely not become a reality”.

The process would succeed by being more transparent and inclusive for the different stakeholders.

Darfur

The problems in Darfur are not part of the peace process but it is believed that the recent fighting in Darfur can seriously affect a peace agreement. This is not a minor issue. The EU uses different levels of diplomacy to address the situation. The EU has a role to play to protect the people there and avoid escalation of the conflict.

EU role

The role of the EU will be crucial when peace is to be implemented. The EU holds dialogues with both the SPLA and the GoS on human rights and governance issues. Recent communications from the Troika on this EU-GoS dialogue were disappointing. The lack of transparency is undermining the impact of the EU-GoS dialogue. All participants agreed that during sensitive negotiations, some form of secrecy must be guaranteed, but that in the dialogue between the EU and the GoS increased transparency on the nature of the talk and the benchmarks for this dialogue is wanted and needed.

Oil

Many European oil companies stopped activities in Sudan but there are still European companies active in Sudan. It was not contradicted that oil has fuelled the war. Mr Gouly added that it could also underpin the peace as oil provides an incentive for stability. Oil provides indeed a tremendous opportunity for Sudan’s political and economic leadership, but there are no guarantees that the people at large will profit from it. The oil companies in the Sudan have not been a force for good.

Human rights

The human rights situation has not changed significantly for the better.

A peace agreement is not enough to improve the overall human rights situation. (International) monitoring is a crucial element for stabilising a post-war Sudan.

Benchmarks: No one present aired any objections to the benchmarks as presented. This is an incentive to further work on them and see how to make them become a reality. The benchmarks for the EU - GoS dialogue and the benchmarks on oil exploitation will be distributed widely.

Session 1: Briefing on the Peace Process

Mr. ALAN GOULTY
UK Special Envoy to the Sudan

Progress in the peace talks

This speech deliberately focuses on the positive developments, because: “Worrying about tomorrow can paralyse action today.” This is not to say that planning is not important but rather that we need to keep our focus on what we can realistically achieve in the present circumstances.

Since the Machakos talks restarted a lot of progress has been made. The Machakos Protocol set out the main areas of agreement, namely on the relationship between State and religion, and on self-determination. Since then there has been further agreement of texts, including a full section on human rights; the Nuba cease-fire is still being observed and will probably be extended; there has also been a cessation of hostilities elsewhere, and the lifting of restrictions on humanitarian access has greatly benefited large numbers of people.

These steps became possible:

- 1) Because everybody in Sudan is weary of war, everybody wants peace and both sides acknowledge that a military victory is not possible.
- 2) As a result of the political involvement of the US and the observer countries
- 3) Because of the support for the process from neighbouring countries, not only IGAD but Libya and Egypt as well. Egypt has confirmed that it has a genuine interest in seeing the Machakos process succeed.
- 4) Because of the realisation that everybody in Sudan will benefit from peace, and there is much to lose. This also means there is real danger from failure.

As a result of these factors neither side will be prepared to walk away from the talks.

The UK approach:

Britain is in for the long haul. The UK aim is peace by and for the Sudanese; owned by the Sudanese. But applying pressure is not the best way forward. Instead we need to facilitate the process of making peace. We should not forget that this is a process that needs to be taken step by step to result in a negotiated agreement. This in its turn will mean that:

-Neither side will achieve all its demands

-Not all problems will be dealt with in this one agreement. People will not negotiate themselves out of power and into court. There is a limit to what can be negotiated.

A peace agreement will be the end of the beginning of peace. Implementation will need a collective effort, and not just from the Sudanese. Inclusiveness is the goal of the parties. This will be difficult to achieve.

The present Peace Process:

General Sumbeiywo and his team have abandoned the issue to approach together with the two parties and started separate consultations. After this, they will be drafting a package of proposals on the main outstanding issues. If agreement can be reached on this package, some issues will remain: detailed work on security and details concerning the cease-fire; the three disputed areas -the Southern Blue Nile State, Abyei, and the Nuba Mountains, and international guarantees and a timetable for implementation. No one knows how long this will take. General Sumbeiywo has indicated that he expects an agreement to be signed in the second half of August.

The EU role

If peace is to be implemented it will need everyone's support. The role of the EU will be crucial. The EU has been having dialogues with both the SPLA and the Government of Sudan that have helped to focus on both human rights and governance issues. It is indisputable that there have been considerable

improvements and a certain amount of credit for that is due to the collective efforts of the EU. But the situation is not fully satisfactory.

The European Commission has finalised the Country Strategy Paper and is ready to start implementation as soon as a peace agreement is signed. But there is more to do:

It is common ground that some form of international presence is needed to monitor an agreed ceasefire. Khartoum may favour the UN route and the EU ought to be prepared to consider a monitoring mission, preferably in support of a UN mandate.

The EU needs to be imaginative about its political engagement with Sudan. Of the (soon to be) 25 member states only 6 have representation in Khartoum and there is currently a small delegation from the European Commission. It is hoped that this delegation will be strengthened in the coming months. The EU needs to be present in the South in a collective way and not by setting up all kinds of national representations.

Some problems remain

Some remaining problems need to be acknowledged.

-Role of oil in the conflict. 40% of the government's income is derived from oil, and it is acknowledged that oil has fuelled the war. But at the same time, oil revenues could underpin peaceful development by being an incentive for stability

Some people think that Southern Sudan can manage on its own as it sits on vast oil reserves. But it will take at least 6 years before the new oil regions in the southern region will produce oil for export. By chance the interim period is also 6 years. This emphasises the importance of achieving stability within that 6-year period, honouring the peace agreement and working together.

-Inclusiveness. The immediate problem is how to get other groups and civil society groups involved in the peace process and implementation.

-The problems in Darfur are not part of the peace negotiations. But there is no doubt that when the peace agreement comes into effect, it will be beneficial for Darfur too.

-Lack of confidence and commitment on both sides. Hopefully progress in the peace talks will generate an increase in confidence.

There has to be a prospect of stability in order to make relations between the Sudanese a success. The challenge is to create the right environment. If we all work together, we can help the Sudanese reach peace and implement a peace agreement but it will require sustained commitment during the pre-interim period, the interim period and beyond.

British ministers are ready for this challenge, and it is hoped that their EU colleagues are ready as well.

Reaction to Mr. Goulty's address

Ms. MARINA PETER

Sudan Focal Point Europe / European Coalition on Oil in Sudan

Appreciation needs to be expressed for all the efforts from IGAD, special envoys, EU and especially the two warring parties for staying with the negotiations. The achievements mentioned by Mr Goulty are considerable but "peace is more than absence of war. Sudan needs a long lasting and just peace." Our organisation fully supports the peace process but there are some issues or challenges still to be addressed. These issues should be addressed before the signing of an agreement and not postponed as otherwise the danger might grow that we end up in another truce between two civil wars.

The following remarks must be seen in that light.

Outside pressure:

Pressure from, especially, Norway and the UK brought the warring parties to the negotiating table in Machakos. This in itself is a good thing but it carries the risk of people seeing any agreement following from this as 'foreign-made'. This danger grows, the less indigenous stakeholders get involved and the less transparent the process is. People cannot develop a sense of ownership if they feel that they are not being properly informed or even feel excluded.

The lack of ownership

Lack of ownership of the peace process became very clear on recent trips to Sudan. Many people feel that their input is not wanted or completely ignored. People who don't believe in peace will not build it. And if they do not work for it will definitely not become a reality. In reaction to this, the Sudanese churches held the Entebbe conferences. Here civil society meets and works with and on the peace process and reconciliation.

Western interest

The West has both economic and strategic interests in the Sudan, especially after 9-11 and the continuing war against the 'axis of evil'. No doubt IGAD members and supporters want to ease the conflict in Sudan. But some of them may be satisfied to deal with a government which can be regarded as friendly towards the West, at least for the time being. Whether they think beyond the six years interim period and whether they are really interested in safeguarding the process of self-determination, including *all* options is at least worth asking. This question is particularly important, as some of them have clearly stated that they see no chance of getting international support for an independent South Sudan. Taking this into consideration, it is of the utmost importance to get a full UN mandate to safeguard and monitor the peace agreement arrangements. There are fears that democracy as spelled out in Machakos will produce a camouflage democracy as we have seen in Ethiopia.

Sharia law is not an issue anymore although nobody was asked if they would like to live under such a system

Human rights are not part of the negotiations themselves

Atrocities committed during the war are not dealt with. Will there be an amnesty, a truth and reconciliation commission, and trials?

Forced recruitment is continuing on both sides. There are still plans for further fighting.

Fighting in Western Upper Nile never stopped

Proxy warfare remains an acute risk

West Darfur. The now so well known problems in West Darfur illustrate a classic case of a failed early warning system. For two years a number of people have warned about Darfur and have been ignored.

There is no doubt that the announcements from both parties that they are ready for peace must be taken seriously. We all would definitely welcome peace. Nevertheless, if peace comes from pressure from outsiders, partly meeting their own economic and strategic interests and partly meeting the interests of the local elite, but *not* meeting the interests of the common people in their plea for a lasting and just solution, there will be problems.

If the peace process is not conducted in a careful, inclusive and transparent way, addressing all issues at stake, we might see the situation that we have seen in the past in many countries:

An agreement ends fighting for some time and then the fighting starts again because the peace is not rooted in the individual communities and ethnicities and does not take notice of their views and desires.

Questions/ Discussion

The Entebbe Process:

Mr Goulty agreed with Ms Peter's remarks on most points especially on the Entebbe process, but he disagreed on the fears, particularly concerning the warnings expressed and human rights, stating that "if we express too many concerns we will not move forward" and that there is a good text on human rights. He also indicated that he hoped this text would be made public as soon as possible.

Transparency:

Mr Goulty: The problem is that General Sumbeiywo has decided that details of the negotiations, and the respective positions of the parties, should not be publicised beyond the negotiating room. There was a practical reason for this; namely that it made the negotiations possible. The downside is that others do not know what is being negotiated. Transparency is a problem.

The capital:

Mr Goulty: You can argue a text in any way you wish. But what we are looking at is a political decision and not a legal one. This goes to the heart of the confidence problem and the fact that many have been treated as second-class citizens.

Self-determination:

Mr Goulty: there are obvious advantages in unity. Nevertheless we all know the referendum depends on the success of the two parties to make unity genuinely attractive to the Sudanese people as the Protocol pledges. This is a problem faced by everyone that favours unity. People should not be too afraid of the Egyptian Government and the US reaction to it. The Egyptian Government knows that it cannot now, if it ever could before, impose its will on Sudan or the Sudanese people. If it feels that unity is in its interests, it must make it attractive.

Sudan and the Cotonou Partnership Agreement

Mr. RICHARD HOWITT

Member of European Parliament

Cotonou:

The Cotonou process is the best example of North-South dialogue and partnership in the world. It is a contractual relationship of equals, dealing not just with aid but trade and other political issues as well. It could be a strong model for global relationships for a more equal world.

The biggest test for this relationship could well be the Sudan. Its human rights situation, poverty and under-development, all resulting from conflict, are extremely problematic. If the EU-ACP relationship is to mean anything it has to provide something for situations like Sudan.

The key differences between Cotonou and the previous Convention (Lomé) include:

- Linking trade and economic issues to traditional development aid issues.
- Political dialogue on human rights dimension
- Role of Non State Actors. In the Cotonou agreement there is a legal requirement for Non-State Actors to be involved in the political dialogue processes and in planning and implementation of programmes funded through the European Development Fund.

Cotonou in relation to Sudan:

Development aid co-operation from the EU to Sudan has been suspended since 1990, because of concerns relating to human rights and democracy. Of course, humanitarian aid continues. There is European Parliamentary support for 400 million Euro in development aid to be made available when the peace process moves forward. This could be a very significant incentive in the whole debate. An important issue to consider is the limited capacity that exists in Sudan in terms of ability to absorb this amount of funding. Normally, the money would be spent by the government but is this a relevant model in the case of Sudan? Maybe it should be disbursed in phases.

Non State Actor participation:¹

Article 6 defines Non-state Actors as including: human right groups, trade unions, farmer organisations, private sector; NGO's, media

Under Article 2 it is a fundamental principle that these Non-state Actors participate in policy formulation and political dialogue. How can this principle be applied in the context of Sudan?

In Sudan there are a lot of practical problems (e.g. vast distances, weak civil society and pressure on the media) which raise the question: "How do we ensure this political dialogue takes place effectively?"

Political dialogue is normally between the EU and a national government. Here we have two parties (the Government of Sudan, and the SPLM/A) and a lot of uncertainty about the future. We should remember that this Non-state Actor consultation/participation is a rolling process. It is not a one-off event. Nowhere in the world is this kind of consultation taking place. This also means that it is not a perfect process, and everybody is in a learning situation. But the demand is that consultation needs to be consistently improved and developed.

On the political dialogue:

Cotonou states that the political dialogue should cover, among other things:

- The arms trade
- Military expenditure
- Ethnic, religious and racial discrimination
- Regular assessments of human rights

¹ See Annex III

- Respect for democratic principles
- Rule of law
- Good governance

From a European Parliamentary point of view it difficult to see how far the dialogue that is going on is contributing to the peace process. It is interesting to speculate how likely a return to a suspension of co-operation would be if there is no progress under the Cotonou dialogue.

Resolutions

The European Parliament's most recent resolution on Sudan was passed on 21st of November 2002. This resolution had a major focus on human rights and it did recognise progress but stated that the human rights situation was "still profoundly unsatisfactory". The oil issue is highlighted in the resolution, both for its potential to contribute to development and for the fact that it is also contributing to the conflict. The European Parliament also asked the European Commission to report on the involvement and impact of European oil companies in relation to the conflict in Sudan. The primary aim of the European Parliament is not to get disinvestment, but to work out ideas on how the extractive industries can contribute to development and observance of human rights. There was also a clear condemnation from the European Parliament of the situation in Darfur in that November resolution and Mr Howitt hoped that this could be taken up by some of the people presenting the audience.

Mr Howitt concluded by emphasising how it might be possible to use a number of different mechanisms to contribute to the return to peace in Sudan. These included not only the Cotonou mechanisms such as the EDF, Non-state Actor participation, and the political dialogue but also certain parliamentary mechanisms through the ACP-EU Joint Parliamentary Assembly.

The ECOS Benchmarks for the EU-Government of Sudan dialogue

Ms. JENNY BROWN

Christian Aid / European Coalition on Oil in Sudan

We as members of ECOS are desperate for the peace process to succeed for it is the only one we have. It has to be made to work. We offer these benchmarks and indicators in the hope they will be a contribution to the peace process.

The EU-Sudan dialogue

The EU-Sudan dialogue has continued since 1999. A series of different benchmarks has been used as a basis for the discussions, but since the Machakos Protocol, the importance of benchmarks seems to have reduced very considerably.

In December 2002 the EU troika made a short visit to Sudan to monitor progress in the peace process. This visit had a disappointing outcome. The public communications were very unclear, and vague on what had been achieved in the previous year through the dialogue. This is a great shame, because if we do not know how progress is being measured we cannot support and help move forward the discussions and the peace process itself. The fact that the communications were so vague implies that there was little concrete progress to report. This in itself is very disturbing.

While we recognise the concerns around the likely effect of transparency in the discussions, the fact there are no objective measurements of progress is totally unsatisfactory. We have no means of knowing what is going on, how it is going on and what hope there is that it will improve. Without information of this kind there can be no sense of ownership or involvement on the part of the Sudanese people themselves. As the other speakers have indicated, this is a very important element if the peace process is to be sustainable.

The ECOS benchmarks and indicators:

The benchmarks were devised to be objectively verifiable means of measuring progress, and/or an instrument to identify whether progress is being made. That is what is new in our benchmarks compared to previous ones. They are deliberately not prescriptive as we are offering these benchmarks as a tool for the Sudanese, for all persons present and for anybody else who might find them helpful. There are three main areas in our benchmarks

- 1) Human rights
- 2) Good governance
- 3) Peace process.

We plan to use these benchmarks to produce a report on progress against our different indicators. We hope to have it available before the next troika mission in December, in the hope it will be both useful and an encouragement to the members of the troika.

Note: the ECOS benchmarks are attached to this report as Annex II

The future of the EU-Sudan relationship

Mr. ROGER MOORE
European Commission

It is not just the Commission that sets the policy but the Union as a whole, meaning the 15 member states + the Commission acting in harmony.

In the middle of 2001 there was an advance in the EU policy towards Sudan, when it was felt that the previous lack of communication between the parties was counterproductive. A so-called “Progressive constructive engagement” was started. This engagement has now been going on for 18 months and although a lot of wishful thinking has been exchanged, not much in the way of concrete results has resulted. It is a very good question, why the Troika does not publish its minutes or conclusions. Although this lack of transparency is to be regretted, in the end this is Union policy.

The Dialogue

There are benchmarks for the dialogue. These were agreed upon between the EU and the GoS. Civil society from both the north and south of Sudan was included in the discussions. The GoS benchmarks were about human rights, democracy, governance, the rule of law, and the peace process; the benchmark for the EU was about normalisation of relations. Normalisation is seen as the *quid pro quo* for a peace agreement. The results from the dialogue have been disappointing. The feeling in the Troika was that the progress they were looking for was probably dependent on the successful outcome of the peace process, because it is difficult for things to change when there is civil war in a country. Following the signing of the Machakos Protocol, emphasis shifted from a focus on benchmarks to the peace process itself.

Future relations with Sudan

The EU will take a completely fresh look at the basis of the dialogue in the event that an interim government comes to power. The benchmarks will be renegotiated with the new government, which will represent the whole of Sudan. In anticipation of the signing of a peace agreement, preparations are under way for normalisation of relations. The CSP is agreed; there is work being done in the area of capacity- building for civil society, the government in the North, and the SPLA. € 242 million is ready for disbursement once a peace agreement is signed. Development co-operation programmes are being prepared that will be focussed on stabilising the peace agreement.

“What do we do when there is no peace agreement?” Article 96 might be used but as the Union seeks to influence events in a positive way, the Union has to be present to be able to influence so Article 96 (disengagement) would be an undesirable last resort.

Oil companies: Mr Moore said that as far as he knew there are no European oil companies active in Sudan. This may be good for the European reputation, but not necessarily for the people on the ground.

Questions/Discussion

Darfur:

Mr Moore: this gives an illustration how political dialogue works. The dialogue takes place at all levels, through regular formal and informal meetings.

The Troika meets the Minister of Foreign Affairs and anyone else they feel is an appropriate interlocutor. The situation in Darfur has been of great concern for many months. It has not passed unnoticed and has been built into the normal process of the dialogue.

Verification of benchmarks:

Mr Moore: this is done on an on-going basis by heads of mission during the normal meetings they have with governments. Once a year the Troika from Europe visits the Sudan in order to assess, with the government, the current situation. It usually manages to get a clear view on where things stand. The GoS have NOT been rewarded for any supposed progress on the benchmarks.

Human rights

Now that the UN Special Rapporteur has been withdrawn it is unclear whether there is any proper mechanism for monitoring the human rights situation

Oil companies

Mr Moore: Not to duck the problem of natural resources in conflict in Africa, but to my knowledge there is no European company active in Sudan. I am personally not convinced that regulation in this area is the best way. But as I do not work on industry regulation and we all want to know the answers to the questions of the European Parliament, we should watch the website of the European Commission on this issue.

Influence of oil revenue on development co-operation and debt relief

Mr Moore: Oil revenues will certainly be taken into account. Sudan is not entitled to debt relief. Debt relief is a lengthy process. Sudan could become eligible but this decision would be made on the basis of calculations by the IMF.

The EU's impact on human rights in Sudan, now and post-peace

Mr GERHART BAUM:

Former UN Special Rapporteur on Human Rights in Sudan

At the moment there is an encouraging situation compared to the situation 2 years ago when Mr Baum started his mandate. But there is a very bad situation in Darfur which looks like the former battlefields: bombing of civilians, abductions, suffering of civilians. There is some hope, however. Progress depends on the people of Sudan and on outside pressure. Without the latter, no peace talks would have started. We should help by criticism and telling the truth, but also by positive encouragement. What we need is a process that links all these elements into one.

Peace and Democracy

There will be no sustainable peace without democracy. Of course there are many countries without democracy that do not do too badly. But now we have the chance to build peace and democracy in Sudan. There are so many different groups in Sudan that respect for minorities is essential for the future of the country. Peace must be built from inside. This means capacity-building is essential: we need to build and support infrastructure including the education system, administrative institutions, a police force, civil society and a democratic military.

Dialogue:

When the US cut relations with Sudan, Europe opened its dialogue. This was a very useful decision but we cannot be happy about the outcome because:

- Virtually none of the benchmarks has been reached.
- The role of the security police is as strong as it was
- No national institution on human rights has been set up as was promised

The situation in the south is also unchanged and the military structures are still in place. -The Convention against Torture has still not been ratified

On the contrary: the national security law has worsened. And the country remains in the tight grip of the omni-present security apparatus that continues to enjoy impunity. All the activities of the security police cannot be justified on the grounds of the war. What is needed is not only a cease-fire but also a cessation of torture.

The Peace Process and human rights

The peace process is an opportunity to improve the human rights situation but this will not happen unless they are clearly linked to each other. Also what matters is not what is written down but what happens on the ground. Thus monitoring is genuinely important. There is still censorship, and still torture.

A positive development is that abductions have gone down. But overall the human rights situation has not improved. Free elections are very important, unrestricted publishing should take place, people should be able to meet in public, and be able to establish political parties. At present there are two non-democratic regimes, and we should avoid ending up with one non-democratic regime. Of course there are human rights violations in every country, but they have to be opposed if one is to retain any credibility. There has been no ratification of the anti-torture convention, and no human rights commission has been established as promised in 2001. These would have been elements of encouragement for the outside world. The Rapporteur was one instrument but respect for human rights should not be dependent on one instrument. It is certain that the human rights situation will stay on the agenda.

Mr Baum's two final points were "Without building civil society there will be no peace". He emphasised that the EU has a responsibility not to spend EU taxpayers' money in Sudan until there is some improvement in the human rights situation. In other words, aid should be used as a carrot.

Questions

EU contribution to improved situation in Sudan

Mr Baum: In general, before resuming aid the EU should be certain that progress is being made in relation to human rights and democracy. Evidence should include:

- The state of emergency should have been lifted
- Respect by the security apparatus for the basic principles of human rights and democracy
- Torture must have ended
- Discrimination against women must have ended
- Freedom of expression. (including for newspapers) must be guaranteed
- The independence of the judiciary must be guaranteed
- Freedom of movement must be guaranteed
- Freedom of assembly must be guaranteed
- IDP's must be free voluntarily to return to their places of origin
- the right to development must be guaranteed

Benchmarks can be a useful tool for measuring how both sides are complying with principles of human rights and democracy.

It would be useful to establish a roadmap for building up civil society.

The private sector and EU foreign policy objectives

Mr. EGBERT WESSELINK

European Coalition on Oil in Sudan / Pax Christi NL

Before 1997, Western Upper Nile was a quiet side-show in Sudan's civil war; after 1997, it became a major focus of military activity. Control over the oil fields became a key military objective for the GoS and the SPLA. Oil income provided the Government with new weapons such as helicopter gunships, resulting in an escalation of the level of violence. Eventually, very large areas were cleared of their original Nuer population, all along the new all-weather road North of Bentiu and further south to Adok, leading to the Thar Jath oil field. The systematic burning of houses and destruction of livelihoods, and the frequent planting of mines indicate a strategy of deliberate depopulation. There is ample evidence that thousands of civilians were killed and many tens of thousands were forcibly displaced. The impact of oil exploitation on the population of Western Upper Nile has been devastating. It is arguably the world's most destructive and socially irresponsible economic activity.

The Greater Nile Petroleum Operating Company

GNPOC completed an oil pipeline in Sudan from the Western Upper Nile to the Red Sea in 1997. Most of the workforces were Chinese convicts who earned a reduction in their sentences. Finances came from international money markets. Confidence was provided by the 25% interest that Talisman Energy of Canada held in GNPOC. Security was to come from the Government of Sudan (GoS) armed forces and the poorly engineered 1997 Khartoum Peace Agreement, which temporarily brought over a number of local military leaders to the side of the Government.

Oil fuels the war

In 1999, the Canadian Government sent a fact-finding mission to Sudan. Its finding, published as the 'Harker Mission's report', was that "oil is exacerbating the war in Sudan". Three consecutive UN Special Rapporteurs for Human Rights in Sudan came to identical conclusions, and today, the UK Special Envoy to Sudan, Mr Alan Goulty, stated that "Government income from oil has fuelled the war".

In early 2000, the main theatre of forced depopulation operations shifted south to Block 5A, coinciding with the construction of the all-weather road from Bentiu to Adok. Lundin Petroleum from Sweden and OMV from Austria together held a majority stake in this concession area, with Lundin as the operating company. Still recently, the Civil Protection Monitoring Team observed that in January 2003 in Block 5A "Many thousands of civilians have been forcibly displaced from their villages by direct military attack in the areas Lara-Tam-Nhialdou-Leel and the villages south of Mankien and Mayom. Conditions are equally bad along the new Bentiu-Adok main road where most villages are now empty or destroyed". The Swedish and Austrian governments have largely ignored the issue

The EU and private sector responsibility

In general, European governments and the EU have treated private sector responsibilities as a non-issue. In 2002, UK Development Minister Clare Short stated that there was no point in targeting European companies as their involvement in oil exploitation in Sudan was minor compared to Asian companies. Last year, it was not uncommon to hear European ambassadors regret that Talisman Energy had sold its assets to ONGC Videsh from India as the former was believed to care about human rights. And today we heard from Mr Moore that there are no European oil companies in the Sudan. This is not true. OMV from Austria still holds its 25% stake in Block 5a and its stake in Block 5b, like Lundin Petroleum still holds its concession in 5b. And we all know that Total Fina Elf owns a huge block in the South of Sudan. There is a very big European commercial interest there.

While the EU and its member states are seriously engaged in promoting peace and respect for human rights in Sudan, and while they are spending many hundreds of millions of Euro each year to alleviate the war-related suffering of the Sudanese people, not once did a European government or institution express concern about the allegation that European industries' activities "exacerbated war in Sudan".

Why is this? Why make a formidable political and financial effort to end a war, and ignore the business operation that is at the heart of that war? Why allow the private sector full freedom to undermine foreign policy objectives?

Oil as opportunity for peace and prosperity

Prospects for increased oil income may indeed serve as an additional incentive for SPLM and GoS to sign an agreement this year. But the January-February 2003 offensives in Block 5A which acutely threatened the peace process, showed that people in power in Sudan prioritise securing oil fields above lasting peace. The facts are that the desire to secure oil revenues has strengthened the position of the hard liners on both sides to the conflict and undermined mutual trust. The EU's current positive appraisal of the oil factor looks improvised. The EU has not developed oil's possible leverage for peace and has kept silent about its negative impact on the people of Western Upper Nile. Neither Lundin Petroleum nor OMV have ever been contacted by their respective home governments, let alone be called to account for their operations. Oil is arguably an obstacle for peace and stability, destroying many lives, with the GoS getting cash and the armed opposition groups getting increasingly suspicious that the Northern elites want peace to grab the oil, not to bring development or justice.

Academic research has developed strong evidence that the presence of oil in a developing country makes life worse, not better for the people who live there, particularly the poor and marginalised, the so called 'paradox of plenty'. Resource-rich developing countries have average lower growth rates than others; they suffer from more poverty, higher levels of corruption, more civil strife and less democracy. Sudan had all this before oil was exploited. Oil is a tremendous opportunity for Sudan's political and economic leadership, but for the country as a whole it is also a formidable risk.

Benchmarks:

Governments have asked civil society organisations such as ours to start dialogues with companies, supposing that this will bring enough incentive for governments to improve performance.

We have therefore designed benchmarks that we think should be met by oil companies. If they do, the chances are very high that, indeed, they will have a positive impact on peace and prosperity in Sudan. We have discussed them with companies involved but all our efforts to dialogue and careful questions and comments have resulted in nothing.

It is time for governments to give teeth to international law.

A governance void

Decisions made by private sector parties can have considerable impact on peace and stability, development, security, human rights, good governance and other key foreign policy objectives, but the private sector is not made responsible for its impact or called to account for its responsibilities.

What can be done?

- 1) the European Commission should answer the call of the European Parliament's 21 November 2002 resolution on Sudan, to present a report on possible involvement of European companies with human rights violations in Sudan. We need to analyse before designing policies.
- 2) the EU, in its efforts to promote peace and development in Sudan must initiate innovative and concerted efforts to prevent Sudan from becoming the next victim of the paradox of plenty.
- 3) the EU member states must translate into national law their obligation to prevent everyone within its jurisdiction from violating human rights in other jurisdictions.
- 4) the principles of the Universal Declaration of Human Rights must be given a place in the international trade agreements.
- 5) finally an international regulatory framework for companies must be developed that requires states to regulate private sector behaviour within their jurisdiction or could directly impose international obligations on it.

Note: the ECOS benchmarks for oil companies can be found attached as Annex III

Conclusion

Ms Marina Peter:

To the best of our knowledge, the chief mediator General Sumbeiywo, aims at having a peace agreement signed in mid-August. Experience tells us that this could be a form of wishful thinking, but most probably we can expect a peace agreement this year.

In general, every speaker welcomed and supported the peace process today. The main messages dealt with Where to watch out and on Transparency. Mr Moore admitted that there is room for improvement. We are all aware that there are times, when transparency - e.g. publishing details of a very crucial and sensitive process too early - can be counterproductive. But without transparency and inclusivity people can not develop the sense of ownership, which is a prerequisite of a lasting peace building process.

Benchmarking is an area that can provide both transparency as well as safeguards. No one present here today aired any objections to the ECOS benchmarks as presented. This is an incentive to further work on and with them and see how to make them become reality, in order to assist in avoiding de-railing processes. Oil is an issue in a lot of conflict areas all around the globe. The human rights abuses and negative ecological effects going along with the exploitation will not be solved just by a peace agreement or by a share of revenues. Issues of compensation, resettlement etc urgently need to be addressed. Companies constantly need to be reminded on their corporate social responsibilities.

The Darfur situation.

It's a very difficult situation. When we have been trying to address it, everybody said it was a minor issue, and many people involved just mentioned that when there was a signed peace, everything would be fine. This has to be seriously doubted. The situation is serious, and a severe challenge to peace. Today we heard the EU uses different levels of diplomacy to address the situation. We would like to see some more action to protect the people there and efforts aiming at avoiding the conflict to further escalate.

Human Rights in general:

We heard from Mr Baum that the human rights situation in Sudan is very far from being a good one, that human rights abuses might even have increased once again during the last months. Human rights need to be given a prominent place both in the talks as well as in the peace building process. The current trend - not only in the case of Sudan – to treat human rights as a minor issue is absolutely counterproductive to justice and democracy. As Mr Goultly said, in Sudan we watch only the beginning of a process. That is true - but why wait until the peace agreement is signed? Why not start right now with the necessary steps? It is still some way to a final peace agreement, and it is a very long way to a just and lasting peace building in Sudan. Many obstacles are still to be removed, many threats might cause de-railing processes. The people in Sudan need assistance and solidarity - not only for a quick start, but also for an accompanying and safeguarding process on various levels after the signing of a peace agreement. The very fact that so many different people are assembled here in this room today is an encouraging sign of interest and commitment. Efforts should be combined, the Cotonou framework provides one tool for this, which should be made best use of.

Closure with thanks to all participants, speakers and organisers.

Annex I



PROGRAMME OF THE CONFERENCE

‘SUDAN’S ROAD TO PEACE: THE EUROPEAN DIMENSION’

*Tuesday, June 24, 2003, 13.00-17.00 hrs.
European Parliament, Brussels, room ASP 1 E 2*

Note: during the first part of the meeting, a lunch will be available for all participants.

- 12.30 Lunch and Welcome
- 13.30 Briefing on the Peace Process, by Mr Alan Goulty, U.K. Special Envoy to Sudan
- 13.50 Reaction and analysis by Ms Marina Peter, Sudan Focal Point-Europe
- 14.00 Discussion
- 14.15 Sudan and the Cotonou Partnership Agreement, by Mr Richard Howitt, Member of the ACP-EU Joint Parliamentary Assembly
- 14.35 Presentation of the *ECOS Benchmarks for the EU-Government of Sudan dialogue pursuant to Article 8, Cotonou Partnership Agreement* by Ms Jenny Brown, Christian Aid
- 14.40 **The future of EU-Sudan relationship by Mr Roger Moore, DG DEV, Head of Unit European Commission**
- 14.55 Discussion
- 15.10 Tea
- 15.30 The EU’s impact on human rights in Sudan, now and post-peace, by Mr. Gerhart Baum
- 15.50 Discussion
- 16.10 The private sector and EU foreign policy objectives: the case of Sudan. Presentation of the *ECOS Benchmarks for Oil Exploitation in Sudan*, by Mr Egbert Wesselink, European Coalition on Oil in Sudan
- 16.25 Discussion
- 16.35 Rounding-up and conclusions
- 17.00 Closure

Annex II



ECOS benchmarks for the EU-Government of Sudan dialogue pursuant to Article 8, Cotonou Partnership Agreement

(1) The peace process

Indicators:

- the full commitment of the Government of Sudan to the peace process on the basis of the Declaration of Principles, including the right to self-determination and freedom of religion
- an end to all targeting of civilian populations and installations, whether through bombing, military action or other, and whether by units belonging to the Sudanese Armed Forces or Government-supported militia
- unconditional, unimpeded and safe access to all regions of Sudan for humanitarian aid organisations
- the revenues generated by the exploitation of natural resources, including oil, are used in a transparent process, and exclusively for the peaceful development of the country
- Continuation of the 15 November 2002 Memorandum of Understanding and the 5 February 2002 Addendum on the Cessation of Hostilities after 31 March 2003, if a peace agreement has not been concluded by then

(2) Democracy, good governance and the rule of law

Indicators:

- a new constitution, agreed in an open and transparent democratic process, including all major political and opposition groups and civil society organisations, that incorporates Sudan's international legal obligations and fully guarantees its people's rights under international law and enables all inhabitants of Sudan to realise their social, economic and cultural rights
- formal and effective separation of legislative, executive and judicial powers
- an agreed process and binding time-frame put in place to allow the people of Southern Sudan to exercise their right to self-determination
- a clear process and binding time-frame put in place to satisfy the political aspirations of the peoples in the marginalised areas, specifically the Nuba Mountains, Abyei and Funj (Ingessena and Southern Blue Nile)
- the establishment of structures of government which guarantee and enable the enjoyment of full civil and political rights for all parts of the population

(3) Respect for human rights

Indicators:

- respect for and active promotion of the Universal Declaration of Human Rights, the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, and fundamental freedoms including the rights to freedom of expression and the freedom of the press
- respect for and active promotion of International Humanitarian Law and the Geneva Conventions
- creation of an enabling environment for all inhabitants of Sudan to realise their civil and political rights through the establishment of an independent, properly resourced and fully functioning Human Rights Commission
- unconditional, unimpeded and safe access to all regions of Sudan for UN and non-governmental human rights organisations including for research, monitoring and awareness-raising
- full respect for the Guiding Principles on Internal Displacement, including the facilitation of the voluntary return of all refugees and IDP's who so wish to their places of origin, in consultation with international and civil society organisations



Annex III

The European Coalition on Oil in Sudan's Benchmarks for Oil Exploitation in Sudan: June 2003

The European Coalition on Oil in Sudan believes that oil companies can be a force for the good and promote respect for human rights in Sudan, provided the following benchmarks have been met:

(1) Security and Human Rights

- (1a) a comprehensive peace agreement that ends all targeting of civilian populations and installations;
- (1b) a formal and effective agreement between all armed sides and factions, in accordance with relevant international standards, how to secure the people and the oil exploitation in the concession area;
- (1c) guarantees that no individuals, military units, militia or law enforcement agencies who are credibly implicated in human rights abuses will provide any security services in the concession area;
- (1c) unconditional, unimpeded and safe access to all regions of Sudan for human rights' and humanitarian aid organisations;
- (1d) a shaping of the company's security set-up along the lines of the Voluntary Principles on Security and Human Rights;
- (1e) security assessment and human rights monitoring systems, covering the entire concession area, that are independent, expert, field-based, that involves industry, government, and non-governmental organisations, and that shares its findings to the fullest extent possible;
- (1d) guarantees that the rights of indigenous people will be respected.

(2) Trust and Peace Building

- (2a) assurance and facilitation of the voluntary return of all refugees and IDP's who so wish, to their places of origin in and around the concession area, in consultation with international and civil society organisations;
- (2b) a comprehensive and sufficiently funded plan for compensating victims of post-1997 violent conflict in the concession area, in agreement with civil society and local leaders;
- (2c) a stakeholders' dialogue and partnership-building between the company and civil society and local leaders, resulting in a comprehensive plan of action for peace and development of the concession area and surrounding regions.

(3) Equity and Development

- (3a) guarantees that the revenues generated by the exploitation of oil are used in a transparent process, and exclusively for a peaceful development of the country;
- (3b) an independent social impact assessment with recommendations how the company can best contribute to the realisation of the economic, social and cultural rights of the people in the concession area;
- (3c) an independent environmental impact assessment with binding recommendations to the company for protection and compensation.

Annex IV

Related articles from the Cotonou Agreement

ARTICLE 2

Fundamental principles

ACP-EC co-operation, underpinned by a legally binding system and the existence of joint institutions, shall be exercised on the basis of the following fundamental principles:

- equality of the partners and ownership of the development strategies: for the purposes of implementing the objectives of the partnership, the ACP States shall determine the development strategies for their economies and societies in all sovereignty and with due regard for the essential elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned;
- participation: apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life;
- the pivotal role of dialogue and the fulfilment of mutual obligations: the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and co-operation relations;
- differentiation and regionalisation: co-operation arrangements and priorities shall vary according to a partner's level of development, its needs, its performance and its long-term development strategy. Particular emphasis shall be placed on the regional dimension. Special treatment shall be given to the least-developed countries. The vulnerability of landlocked and island countries shall be taken into account.

ARTICLE 6

Definitions

1. The actors of co-operation will include:

- a. State (local, national and regional);
- b. Non-State:
 - Private sector;
 - Economic and social partners, including trade union organisations;
 - Civil Society in all its forms according to national characteristics.

2. Recognition by the parties of non-governmental actors shall depend on the extent to which they address the needs of the population, on their specific competencies and whether they are organised and managed democratically and transparently.

ARTICLE 8

Political dialogue

1. The Parties shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides.

2. The objective of this dialogue shall be to exchange information, to foster mutual understanding, and to facilitate the establishment of agreed priorities and shared agendas, in particular by recognising existing links between the different aspects of the relations between the Parties and the various areas of co-operation as laid down in this Agreement. The dialogue shall facilitate consultations between the Parties within international fora. The objectives of the dialogue shall also include preventing situations arising in which one Party might deem it necessary to have recourse to the non-execution clause.

3. The dialogue shall cover all the aims and objectives laid down in this Agreement as well as all questions of common, general, regional or sub-regional interest. Through dialogue, the Parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass co-operation strategies as well as global and sectoral policies, including environment, gender, migration and questions related to the cultural heritage.

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs and organised crime, or ethnic, religious or racial discrimination. The

dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.

5. Broadly based policies to promote peace and to prevent, manage and resolve violent conflicts shall play a prominent role in this dialogue, as shall the need to take full account of the objective of peace and democratic stability in the definition of priority areas of co-operation.

6. The dialogue shall be conducted in a flexible manner. Dialogue shall be formal or informal according to the need, and conducted within and outside the institutional framework, in the appropriate format, and at the appropriate level including regional, sub-regional or national level.

7. Regional and sub-regional organisations as well as representatives of civil society organisations shall be associated with this dialogue.

Annex V

European Parliament resolution on human rights in Sudan, 21 November 2002

The European Parliament,

- having regard to the agreement reached in Machakos, Kenya on 20 July 2002, and the cease-fire memorandum of 15 October,

- having regard to the statement by the Presidency of the European Union of 14 November 2002,

- having regard to its previous resolutions on human rights abuses and the situation in Sudan,

A. deeply concerned by the continuing civil war, which has been raging in Sudan for more than 19 years, killing more than 2 million people and causing immense human suffering, particularly among civilians, as well as gross human rights violations by all parties involved in the conflict, massive displacement and a breakdown of economic and social structures,

B. pointing out the urgent need for a just and durable peace settlement, and welcoming in this context the recent progress made at the IGAD-sponsored peace talks in Machakos, Kenya,

C. welcoming in particular the signing on 15 October by the Government of Sudan and the SPLA of the Memorandum of Understanding on the Cessation of Hostilities, which commits both parties to unimpeded humanitarian access to all areas and to all people in need; deploring, however, that both sides have already accused the other of violating the cease-fire agreement,

D. whereas this is the first occasion on which the SPLA/SPLM has signed an agreement on the cessation of hostilities,

E. having regard to the agreement between the government, the SPLA and the United Nations on a programme for the disposal of mines and unexploded ordnance,

F. whereas priority should be given to the IGAD-sponsored process,

G. mindful of the government's pledge to respect and promote human rights and the rule of law and thus to embark upon a process of democratisation which should result in the establishment of a democratically elected executive and legislature,

H. whereas the 1997 constitution recognises the right of the southern provinces to self-determination,

I. mindful of the extremely valuable potential contribution of oil production to the country's economic development, but deploring the fact that oil revenues have so far only exacerbated the war by fuelling the Government's military expenditure,

J. whereas several European oil companies are involved in the extraction business despite human rights abuses by both belligerents and the continued suffering of the civilian population,

K. horrified by the widespread and indiscriminate aerial bombardments by government forces, which have continued even subsequent to the Machakos agreement and seriously and repeatedly affect the civilian population in southern Sudan,

L. deploring the continuing violations of human rights, in particular the restrictions on freedom of religion, as well as restrictions on freedom of expression, association and peaceful assembly, imposed under national security laws,

M. deploring the recent passing of at least 200 death sentences by unconstitutional emergency courts in Darfur State,

N. whereas in recent months the Sudanese Government has on several occasions banned humanitarian flights, particularly flights organised by the UN World Food Programme,

O. welcoming the progress achieved in some areas by the EU-Sudan political dialogue, particularly the improved relations between Sudan and its neighbours and the removal of any suspicion that the country is supporting international terrorism,

P. whereas EU development aid to Sudan has been frozen since March 1990, but on 21-22 November the EDF Committee will discuss the Country Strategy Paper for Sudan, which represents a major step towards the normalisation of EU relations with this country,

Q. whereas the resumption of European Union aid must remain conditional upon progress as regards respect for human rights, political and religious freedoms and the rule of law,

R. whereas no meetings of the ACP-EU Joint Parliamentary Assembly may be held in a country whose co-operation agreement with the European Union has been suspended,

1. Fully supports the IGAD-sponsored peace talks in Machakos, Kenya, and the Memorandum of Understanding on the Cessation of Hostilities signed on 15 October, and calls on both parties to fulfil

their obligations immediately and thus cease all armed action, particularly against the civilian population, with a view to facilitating the implementation of humanitarian assistance programmes and to reaching a negotiated and lasting solution to the conflict;

2. Welcomes the willingness shown by donors to step up financial aid for the peace process and humanitarian assistance;

3. Calls on the Sudanese Government to put an end to aerial bombardments of civilian targets and abuses committed by the army and paramilitary militia against the civilian population; calls for an end to measures aimed at deporting people living in oil-producing areas and for the government to allow the displaced communities, particularly the Nuer and Dinka peoples, to return;

4. Calls for the OECD code of conduct to be scrupulously observed by all oil companies operating in the country;

5. Calls on the Commission to provide it with a report on the possible involvement of European oil companies in abuses committed against local communities in oil-producing areas;

6. Condemns the continued serious human rights violations by all parties to the conflict in southern Sudan and urges all parties to stop atrocities such as enslavement, child abuse, torture, rape, killings and other abuses;

7. Calls on the Government of Sudan rapidly to relax the restrictions on the freedom of religion, as well as restrictions on freedom of expression, association and peaceful assembly, and to take more effective action against torture, discrimination against Christians and abductions (which particularly affect women and children);

8. Calls on the government and the SPLA to ensure compliance with the ban on female genital mutilation;

9. Calls for the immediate abolition of the unconstitutional emergency courts in Darfur State and for the commutation of all the death sentences passed by these courts, in compliance with international human rights laws;

10. Notes that while some improvement has been made in the areas currently covered by the EU-Sudan political dialogue - notably human rights, democracy, the rule of law and good governance - the situation regarding all of these remains profoundly unsatisfactory;

11. Welcomes the progress made in the dialogue between Sudan and the European Union and hopes that all the requirements for a resumption of normal relations under the terms of the Cotonou Agreement will be met at the earliest opportunity;

12. Calls on the Commission considerably to increase staffing levels at the European Union delegation in Khartoum with a view to the additional tasks that will be assigned to the European Union;

13. Notes the willingness of the Sudanese authorities to invite the ACP-EU Joint Parliamentary Assembly to hold its plenary session in their country and expects a final peace agreement to be concluded and the other requirements for a resumption of co-operation with the European Union to be met, in accordance with the Cotonou Agreement;

14. Instructs its President to forward this resolution to the ACP-EU Council and Joint Parliamentary Assembly, the Commission, the secretaries-general of the United Nations and the African Union, the Government of Sudan and the Sudanese People's Liberation Movement

Annex VI

List of Participants

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