



Oil and the Future of Sudan

Conference Report

1-2 November 2006
Juba, Southern Sudan

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1. Introduction

On 1st and 2nd November 2006, the Conference "Oil and the Future of Sudan" took place in Juba, Southern Sudan, at the initiative of New Sudanese Indigenous NGOs (NESI) Network and the European Coalition on Oil in Sudan (ECOS). The conference was attended by government authorities, parliamentarians, oil companies, academics, and representatives from local communities, embassies, international organisations, and NGOs. The interventions focussed on the question how oil and its revenues can underpin the objectives of the Comprehensive Peace Agreement and contribute to peace and equitable development in Sudan. Key issues that emerged were the regulation of the social and environmental impact of the petroleum sector, compensation and reparation, transparency and accountability, security, participatory planning, and local development.

H.E. Dr. Riek Machar, Vice President of the Government of Southern Sudan gave the keynote speech, followed by General (Ret.) Lazaro Sumbeiywo, Former Special Envoy for Sudan for the Government of Kenya, and H.E. Ms. Angelina Teny, State Minister in the Ministry of Energy and Mining of the Government of National Unity.

NESI Coordinator, Ms. Suzanne Jambo in her welcoming speech, stated that the conference's aims were:

- Joining hands through constructive dialogue for the realization of a just and lasting peace through the Comprehensive Peace Agreement (CPA) framework.
- Honest and constructive deliberations between key stakeholders/players in Sudan's oil industry towards the formulation of guiding principles for the Sudan oil industry.
- Contributing towards transparent and accountable revenue management.
- Seeking ways to timely realise peace dividends generated from oil revenue.
- To spell out mechanisms for channels of dialogue, peace building, and efficient, transparent and accountable systems of governance.

This report contains a summary of the presentations and discussions that took place during the conference. Subject upon availability, full-length versions of the presentations can be found on the ECOS website www.ecosonline.org

While this document is believed to contain a correct representation of the views and opinions expressed by the conference participants, the organisers cannot assume any liability or responsibility for the accuracy, completeness, or subsequent use of any of the information herein.

New Sudanese Indigenous NGOs (NESI) Network
European Coalition on Oil in Sudan (ECOS)

2. List of Abbreviations

CPA	Comprehensive Peace Agreement
ECOS	European Coalition on Oil in Sudan
EIA	Environmental Impact Assessment
GNU	Government of National Unity
GOSS	Government of Southern Sudan
ICSS	Interim Constitution of Southern Sudan
IGAD	Intergovernmental Authority on Development
INC	Interim National Constitution
JIU	Joint Integrated Unit
KNCHR	Kenya National Commission on Human Rights
MEM	Ministry of Energy and Mining (GNU)
MIM	Ministry of Industry and Mining (GOSS)
NESI	New Sudanese Indigenous NGOs Network
NCP	National Congress Party
NPC	National Petroleum Commission
SAF	Sudan Armed Forces
SPLM	Sudan People's Liberation Movement
SPLA	Sudan People's Liberation Army

3. Key Quotes

H.E. Dr. Riek Machar, Vice-President of the Government of Southern Sudan:

"Both GNU and GOSS depend very much on oil revenues. For the last two years our annual budget has been pure oil revenues. That's why we are all here, and we postponed our Governors Meeting this morning."

"The contemporary oil activities are important but oil should not overshadow the activities of the other economic sectors. Oil should be an engine of growth so that we can build a good economic base, whether it is in industry or agriculture – which the Sudan has a big potential in."

"I have noticed that some of the oil companies in Blocks 1, 2, 4, 3 and 7 are not here, I hope you have invited them; they should really be here."

Gen. (Rtd) Lazaro Sumbeiywo, Former Special Envoy for Sudan, Government of Kenya:

"How far is the implementation of the CPA, its honouring and progress? Are there any challenges, successes? Is the CPA really being implemented? If not, then why not?"

"The Sudanese people bore the brunt of war and sacrificed enormously, and their expectations are nothing short of actual peace dividends. This is what the Sudanese leaders must constantly remind themselves of. The opposite of these peace dividends can be devastating and backfire on peace."

H.E. Ms Angelina Teny, GNU State Minister of Energy and Mining:

"The oil sector was developed during war time, but now is the time as a nation to put together a vision and strategy for the proper management of this strategic resource. Sudan now has the opportunity to develop the oil sector in order to support the peace, to ensure that unity is attractive, to ensure that those aggrieved during war get redressed, and to take our place in the modern world where oil is produced with social responsibility."

"The environmental impact of oil exploitation and production has no boundaries. If not now, it will impact in ten years from now. "

"The conference should look at the issue of contracts signed by the GOSS with oil companies White Nile and ASCOM and the disputes as to who is the rightful owner of the concessions, as these areas have also been concessioned out by the government of Sudan then. These issues need to be resolved."

"The 2% [of oil revenue sharing for the State] in Naivasha is to deal with the social impact and to directly benefit the people."

"Law is law and protection comes from the police. It is clearly defined that in the oil fields the only security force that should be there is the Joint Integrated Unit in CPA. But we still have problems of SAF members in the oil areas. GOSS should address this issue at different levels."

"There is a feeling that they [oil companies] ignore different levels of government in the area of operation. This is because in the Ministry of Energy and Mining there is a rule, we call it the Rule of Engagement, which says that companies can deal only with the Ministry."

H.E. Mr. Paul Mayom Akec, GOSS Minister of Police and Security:

"Are the displaced people secure in the new settlements? No. Getting to those places was a bitter choice for them."

"Nobody is above the law. Sue the companies or arrest them if they misbehave!"

H.E. Mr. John Luk Jok, GOSS Minister of Culture, Youth and Sports:

"We have a Government of Southern Sudan, the States, and communities affected by oil, but do they have a role in the management and development of oil in Southern Sudan? Different answers exist to this: the National Congress Party as part of the Government of National Unity thinks that all oil development must be under control of the Ministry of Energy and Mining and that the other levels of government have nothing to do with what happens on the ground in terms of the management of oil. We disagree on that."

"Companies are not above the law, they can be taken to the court. (...) Compensation is left to individuals. Communities should employ lawyers to raise the cases for them. For those who cannot manage to pay that, our National Constitution or the Southern Sudan Constitution is very clear: the government can provide for legal aid."

"White Nile and ASCOM are exploring in the sensitive areas, in the wetlands which are declared protected by the United Nations, so these companies have to be very careful operating here."

Mr. Jay Park, Partner and Chair, Macleod Dixon LLP:

"How a Contractor behaves is as important as or more important than the contractual provisions. But if a government wants enforceable rights to require certain behaviour, contractual or other legal provisions are necessary."

"Modern practice in most countries is that companies publish their contracts on a website for a bid process."

"There is scope to improve aspects of the existing oil contracts."

Brig. Gen. Philip Thon Leek Deng, Governor Jonglei State:

"Some of these oil companies should understand that Southern Sudan is no longer a no-mans-land as it was before the CPA, ready for grabbing. There are levels of governments and laws in full operation that must be consulted and respected by oil investors and all concerned."

"Governments in developing countries are always forced to consider economic survival and poverty concerns over environmental conservation concerns; but what we do not always know, or fail to consider, is that rapid environmental destruction is the major cause of poverty and therefore, have to take strong measures to conserve our environment for the survival of our populations."

Ms. Jeni Klugman, World Bank Chief Country Economist for Sudan and Ethiopia:

"Special efforts and careful management is needed to avert the risk of Dutch Disease in Southern Sudan. This underlines the need to boost productivity in non-oil export sectors, first and foremost traditional agriculture, to develop exports, for example in higher-value agriculture, manufacturing, and services, as well as to create a business climate that facilitates investment in new activities and lowers the cost of doing business throughout the economy."

Mr. Elia Bioch Kur, MP for Bailiet County:

"People talk about the revenue of oil sharing, but I am talking about the life of people. Revenue will be for whom? In northern Upper Nile you see villages destroyed for the purpose of oil, and the same thing for the environment. Cattle will not survive."

"These are real problems, if there is to be war again, it can start from there."

Rev. Matthew M. Deang, MP for Koch County, Unity State:

"We will continue to ask the Government of Sudan to compensate the people in the areas of oil exploration and we hope the international community will back us."

Prof. Dr. Asim El-Moghraby, Sudanese Environmental Conservation Society:

"The wealth of Sudan lies in the diversity of its tribes, its people and its natural resources. Not in oil. Oil will be gone in a few years and will leave nothing but a dilapidated environment. Sustainable development always needs responsible national environmental policy, comprehensive unified legislations, and integrated and coordinated administration. There is hope, if we put our hands together. This cannot be done without a strong system of education."

Ms. Suzanne Samson Jambo, NESI Coordinator:

"We believe that the people of Southern Sudan have the right to know how the oil industry intends to tackle the many challenges it faces and how White Nile Ltd. will manage its impact on their lives and the natural environment."

"Civil Society Organisations should demand a direct role in the oversight of how funds are received and spent. They should be facilitated to, alongside other partners, develop the public's ability to understand and influence the above issues. The GNU and GOSS should publicly disclose payments made by oil companies to them."

Prof. Tingwa, University of Khartoum:

"Companies need to do much more than just obeying the government."

4. Summary of Presentations

4.1. Welcoming Remarks by Ms. Suzanne Jambo

Coordinator, New Sudanese Indigenous NGOs (NESI-Network)

"Kindly allow me, on behalf of this Conference's organizers, namely the New Sudanese Indigenous NGOs Network (NESI Network) and European Coalition on Oil in Sudan (ECOS)/Pax Christi to warmly welcome you to this historic 1st of its kind Oil Conference on Sudanese soil, in Juba today.

Your Excellency Dr. Riek Machar, the Vice-President of the Government Southern Sudan and distinguished delegates,

At this juncture, I would like to kindly request that we all observe a moment of silence in memory of our fallen Leader, the Late Dr. Garang de Mabior and all the heroes who have lost their dear souls in the quest for a just and lasting peace for the people of Sudan. (Moment of Silence). Thank you.

As I welcome you all to this historic Conference, I would like to share with you a very brief overview of the Oil Conference's goals and what we hope to contribute to:

- *Joining hands through constructive dialogue for the greater realization and actualization of a just and lasting peace through the Comprehensive Peace Agreement (CPA) framework.*
- *Honest and constructive deliberations between some of the most important stakeholders/players in Sudan's oil; the government, the Sudanese communities, civil society, professional and expertise 'think tanks' and the private sector (local, regional and international) towards the formulation of guiding principles for the Sudan oil industry.*
- *Contributing towards making the oil management and its revenue utilization in the Sudan increasingly transparent and accountable to the people.*
- *To facilitate for the acceleration of peace dividends generated from oil revenue.*
- *To spell out mechanisms supported by oil revenue, which will contribute towards the establishment of holistic and viable channels of dialogue, peace building, efficient, transparent and accountable systems of governance.*

Once again, we welcome you to this Conference, we wish you most constructive and fruitful deliberations and resolutions. Thank you."

4.2. Keynote Speech by H.E. Dr. Riek Machar

Vice-President of the Government of Southern Sudan

CPA

Since 1977, when oil exploration started in Southern Sudan, it has been passionately and emotionally discussed by the Sudanese. People are still debating, despite the existence of a framework for the regulation and management of petroleum development as laid out in the Sudanese Constitution and Sudan's Comprehensive Peace Agreement (CPA), signed in January 2005. The CPA contains a number of guiding principles, including the empowerment of the appropriate levels of government to develop and manage, in consultation with the relevant communities, the various stages of oil production in Sudan during the Interim Period.

All levels of government, from GNU, to GOSS, to State level have competencies in oil management. Article 190 in the Sudanese Constitution gives the framework for the management and development of the petroleum sector in Sudan. It also empowers

appropriate levels of the government that can manage the oil. Article 183 in the Southern Sudanese Constitution deals with specific competencies at all levels, from the GNU to state levels. Key institutions overseeing the development and management of the oil industry in Sudan are the Ministry of Energy and Mining at the GNU level, the Ministry of Industry and Mining with GOSS, and the National Petroleum Commission (NPC). The NPC is not yet operating, although the members have been appointed by the co-chairs. It is about time that the Constitutional framework starts to be functional.

Environment

Environmental degradation as a result of oil activities needs to be tackled. There are concerns about environmental issues and the treatment of waste has not been well addressed in Blocks 1, 2, 4, 3 and 7. The conference should propose resolutions for oil companies operating in Sudan to adopt, particularly on the environment. With regard to the concessions given out in the South, i.e. to White Nile and ASCOM, the GOSS has imposed on them operational standards to protect the environment. These should also be addressed.

Displacement

The displacement of people in the oil fields, especially in Unity State and Melut, Longuchuk and Maban Counties in northern Upper Nile State is a major problem. While displacement due to oil exploration and production could be understood during the war, this should not happen in peace time. Companies should work with local communities. If there is need for people to move, this should be done more in a civil manner, where people should get compensation. The same goes with building of pipelines.

Agriculture

In western Upper Nile the methods used for disposing contaminated water are really not good methods. The oil fields are agricultural areas. Experts should advice how to continue agricultural production in areas where oil is being produced.

4.3. General (Rtd) Lazaro Sumbeiywo

Former Special Envoy for Sudan for the Government of Kenya; former IGAD Chief Mediator, Sudan Peace Talks.

Challenges and Opportunities of Oil and the Future of Sudan

The CPA contains landmark breakthroughs towards making peace, captured in its key provisions under the Protocol of Machakos and the various protocols on security arrangements, wealth-sharing, power-sharing and the disputed areas, Abyei, Southern Kordofan and Southern Blue.

"How far is the implementation of the CPA, its honouring and progress? Are there any challenges, successes? Is the CPA really being implemented? If not, then why not and when?"

"The Sudanese people bore the brunt of war and sacrificed enormously and their expectations are nothing short of actual peace dividends. This is what the Sudanese leaders must constantly remind themselves of. The opposite of these peace dividends can be devastating and backfire on peace."

Management of the oil sector

Examples can be drawn from Iraq, Norway, Nigeria and Venezuela, where oil has been either a blessing or a curse, or both, depending on its management. In light of these examples, the Sudanese have a chance to make a choice of:

- Putting in place sound management policies in the oil sector and funds from the sale of oil to be used in accordance with the CPA Provisions.

- Transparent utilization of oil revenue at all levels of government can be a very important tool in assuring the population on financial stability and economic gains.
- Equitable distribution of natural resources and wealth especially in oil producing states.
- GNU, GOSS and State Governments should not shy away from learning from other resource rich countries such as Norway, Malaysia, and East Timor in how they manage their resources. Sudanese do not need to re-invent the wheel but instead they can learn and replicate, albeit, to their own local base specifications and needs.
- The effective and efficient establishment of institutions and systems at the different levels of government and commissions. Government's position should strive to be based on efficiency, merit and equity.

"The Sudanese yearn for a just and lasting peace. Peace dividends are the only way out to sustain the CPA."

4.4. H.E. Ms Angelina Teny

State Minister of Energy and Mining, Government of National Unity

During the formation of the various ministries within the GNU, the Ministry of Energy and Mining was a centre of controversy. For a whole month, Sudan was governed on an *ad hoc* basis. The debate on who should be leading the Ministry illustrates the strategic place which the oil sector is occupying in the economic, social and political landscape in Sudan. The reason why the SPLA agreed to have the ministry run by the NCP was actually confidence in the CPA, which ensures the involvement of different levels of government in the management and decisions in this sector. To date the struggle to operationalize the CPA is going on, especially the National Petroleum Commission (NPC). Different levels of government are struggling hard to put together the NPC.

The oil sector emerged during the war, which strongly influenced the way it was developed and managed. The sector was basically developed to support the war efforts and the Sudan Government at the time managed to actually explore and put Sudan on the map of oil producing countries although at a very high price.

"Sudan now has the opportunity to develop the oil sector in order to support the peace, to ensure that unity is attractive, to ensure that those aggrieved during war get redressed, and to take our place in the modern world where oil is produced with social responsibility. Now is the time as a nation to put together a vision and strategy for the proper management of this strategic resource."

Contracts in the South

"The conference should look at the issue of contracts signed by the GOSS with oil companies White Nile and ASCOM and the disputes as to who is the rightful owner of the concessions, as these areas have also been concessioned out by the Government of Sudan then. These issues need to be resolved."

GOSS dependency on oil revenue

Current expectations that oil prices will fall need to be taken into account when putting together the budget for 2007. This will have a serious bearing on the process of recovery of the whole of Southern Sudan.

Displacements

The conference needs to address the social impact of oil development in any community, including the issue of compensation and the direct impact on the lives of people living in the oil areas.

"The 2% [of oil revenue sharing for the State] in Naivasha is to deal with the social impact and to directly benefit the people."

Environment

Oil development is moving further south, into the Sudd areas, the biggest wetlands in the world. These are now declared as protected areas under the international Ramsar Convention, which has significant bearing on the operations of the oil companies.

People have been talking about waste water. The Ministry of Energy and Mining is trying to put in place or encourage companies to take measures. The companies that are just starting are going the right course. For the older companies in Blocks 1, 2 and 4, the issue of waste water is a serious one. A company called OCEAN deals with bio-remediation, treating this water now. However the project started very late.

The Ministry has a department of environment. Its role is advisory, but needs to be made more effective. The Ministry has brought in a consultant to restructure the whole department to comply with new systems and new laws. But there are gaps. The CPA is signed; the people at the localities know their roles and their rights. The NPC has not been made operational. New policies are not put in place. This has created a vacuum. We are using laws, which are not in compliance with the interim constitution. This is the case in many other areas.

Sudan needs to think of future generations, by putting in place sound environmental policies and practices.

"The environmental impact of oil exploitation and production has no boundaries. If not now, it will impact in ten years from now."

4.5. H.E. Mr. Paul Mayom Akec

Minister of Police and Security, Government of Southern Sudan

There are interim constitutions for GNU, GOSS and the States. They came about as a result of long disagreement by the Sudanese among themselves in the manner in which to govern themselves. The negotiated settlement agrees to run this transition until the referendum.

Security and compensation

Since the late 1970s, forced displacement and killings have happened in the oilfields.

"Are the displaced people secure in the new settlements? No. Getting to those places was a bitter choice for them. The poor would never even know what is agreed to by their governments. Only in 2004, I have heard of cases filed against the oil companies for compensation."

It is a failure on the part of the government to do its duty and provide security to the citizens in their areas of origin and ensuring the fundamental rights of citizens. Although there is a provision for compensation in the peace agreement, the question is whether it is adequate or not to restore back the former social existence.

The protection of the oil sector in Sudan is constitutionally done by the Joint Integrated Units. The protection of the oil companies is managed by local authorities, and the local police are guarding the companies.

Revenue sharing

The peace agreement reflects some disagreement as to who owns the land, but there is agreement on how to divide the resources. This revenue is accruing from the oil fields

situated in Southern Sudan. The GOSS is calling upon their colleagues in the North to distribute the revenues.

"The agreement is there, but no one knows what will happen after the interim period."

4.6. H.E. Mr. John Luk Jok

Minister of Culture, Youth and Sports, Government of Southern Sudan

National Petroleum Commission (NPC)

The NPC is known best for doing nothing rather than doing anything, even though its functions are clearly specified in the CPA:

- Formulation of public policies and guidelines related to the development and management of the petroleum sector.
- Monitoring and assessment of the implementation of those policies to ensure that they work in the best interests of the people of Sudan.
- Negotiation and approval of all oil contracts for exploration and production of oil in Sudan, ensuring their consistence with NCP policies and guidelines.

Thus far, the NPC held two meetings, but has made no headway. The problem lies with the interpretation of the provisions of the CPA concerning the role of all the levels other than the GNU.

"We have a Government of Southern Sudan, the States and communities affected by oil, but do they have a role in the management and development of oil in Southern Sudan? Different answers exist to this: the NCP part of GNU thinks that all oil development must be under control of the Ministry of Energy and Mining and that the other levels of government have nothing to do with what happens on the ground in terms of the management of oil. We disagree on that."

The oil industry must be managed by the GNU Ministry of Energy and Mining, the GOSS Ministry of Industry and Natural Resources, as well as the relevant States Governors. CPA paragraph 3.1.2 says that one of the guiding principles for the development and management of the petroleum sector is:

"The empowerment of the appropriate levels of government to develop, and manage, in consultation with the relevant communities, the various stages of oil production within the overall framework for the management of petroleum development during the Interim Period."

Decisions on the level of oil production from the reserves are influenced by various factors, including the oil market, the political climate, the geology of the reservoirs, however the GOSS is not taking part in any these considerations. The NPC is formed on equal parity, 5:5. The CPA says GOSS should have a presence in the Ministry of Energy and Mining, but so far it has not happened in the way it was agreed.

Issues

The Constitution says Environmental Impact Assessments need to be carried out prior to oil development in the South. But that is not done. Other issues that need to be dealt with are the sharing of revenues, the North-South Border Commission, employment and compensations.

4.7. Mr. Jay Park

Partner & Chair, International Energy Practice Group, Macleod Dixon LLP

Oil Contracts in Sudan: Developing and Implementing a Plan for the Future

The role of petroleum contracts

Investors in upstream petroleum activities decide where to invest based on three criteria:

- geology
- fiscal terms
- contractual and legal factors

In terms of the legal and contract regime in a particular country, three key aspects cause concerns to investors:

- the right to monetize
- stability
- enforceable international arbitration

The absence of any one of these three aspects puts the investment favourability of the regime at significant risk, and may justify a decision not to invest. The "obsolescing bargain" is used to describe the change in bargaining power in favour of the host state that occurs once a project sponsor, initially encouraged by a host state to invest, has committed its capital.

Host State Concerns

Key issues that a host state wants to see addressed in its petroleum regime, which includes the contractual arrangements are:

- fair sharing of the fiscal "pie"
- full and prompt exploration of prospective areas
- protection of the environment
- proper treatment of residents and communities affected by development
- training and education of citizens
- purchase of local goods & services
- reasonable controls over development activity

Petroleum provisions in the Wealth Sharing Protocol

Foreseeable problems in implementation:

- The NPC has policy-making powers, but how will these policies be implemented by the Government? And will the NPC play a role in observing, auditing and enforcing contracts? If not, the mere approval of a contract might mean little if its terms are not enforced.
- Mechanisms need to be established to ensure that the NPC's contract approval process is not a hollow right. Granting shared representation of GOSS nominees on "Joint Coordination Committees" would be one way of doing this.
- The competing interests of the various stakeholders are diverse; this will be the biggest challenge facing the NPC.
- In terms of environmental and social impacts and compensation for past wrongs, an independent tribunal would be the ideal mechanism for review and assessment.
- The Future Generations Fund as provided in the Wealth Sharing agreement is a laudable concept, but it can be challenging to implement in a country with as many immediate needs as Sudan.

Oil contracts

There is scope to improve aspects of the existing contracts, especially concerning environmental standards, benefits to local communities and training and education schemes. There is potential for arriving at a mutually agreeable consensus, but respecting the fiscal terms is important for continued investment attractiveness.

For future contracts, strategies and programs for the petroleum sector need to be developed and applied to the development of a new "model contract" using modern contract practices. There is a pressing need to seek both NPC approval as well as local approval to the concepts, and to conduct public international bid rounds for new blocks.

Developing an Action Plan

In response to the identified problems with the implementation of the CPA, the GOSS can take the following solutions and actions in the interim period:

Dysfunctional NPC

- Establish evidence of this as a grievance in respect of CPA implementation.
- Take up measures that you would want to implement if the NPC existed, based on the NPC functions in the CPA:

"Formulate public policies and guidelines in relation to the development and management of the petroleum sector"

- prepare the public policies and guidelines in relation to development and management of the petroleum sector that GOSS would want to implement if NPC existed;

"Monitor and assess the implementation of those policies to ensure that they work in the best interests of the people of Sudan"

- This is more difficult to do in the absence of policies; is access being denied to oil operations? if not, then commence monitoring of GOSS policies to the extent possible; if monitoring not possible, add to grievance;

"Develop strategies and programs for the petroleum sector"

- develop them; this is a "soft" provision of the CPA; difficult to assess concretely what it achieves;

"Negotiate and approve all oil contracts for the exploration and development of oil in the Sudan, and ensure they are consistent with the NPC's principles, policies and guidelines."

- Develop the "model contract" that you would approve including fiscal terms, development terms and social & environmental terms; this requires GOSS to engage with stakeholders; use "best international practice" in preparing this contract.

- All of this will take time. If the NPC is still not operational once all this is ready, then raise this as an issue with the parties that were involved in bringing about the CPA: point out the lack of progress, and what GOSS would have NPC doing if it was operational and point out the extent to which activities are non-compliant with what GOSS would have the NPC do.
- The issue should also be raised with oil companies: they prefer peace to war and NPC formulation is one of the key requirements to continued peace.

Contracts

- Regarding existing contracts, the CPA says:
"If existing contracts are deemed to have fundamental social and environmental problems the Government of Sudan will implement necessary remedial measures."
 - Concretely define these social and environmental problems;
 - Obtain copies of all contracts and determine what "social and environmental" issues would be added to address the problems. These should be based on the Model Contract provisions.

Compensation

- Regarding compensation, the CPA says:
 - "Persons whose rights have been violated by oil contracts are entitled to compensation. On the establishment of these violations through due legal process the Parties to the oil contracts shall be liable to compensate the affected persons to the extent of the damage caused".*
 - Commence a suitable "legal process" that would define the violations;
 - focus on claims that have a clear economic impact on affected persons;
 - Present the outcome of this process to the parties to the oil contracts (who must have a role in the legal process itself).

4.8. Mr. Egbert G. Ch. Wesselink

Coordinator, European Coalition on Oil in Sudan (ECOS)

Basic facts on oil exploration and production in Sudan

2006 Saw Major Achievements

Until 2006, Sudan had only one major upstream project (blocks 1, 2 and 4, operated by the Greater Nile Petroleum Operating Company (GNPOC) in the Muglad Basin), one export pipeline and one crude oil blend. This situation changed late 2006, when a second pipeline came on stream. A major refinery expansion was realized, in addition to important field developments. As a result, the country's crude oil production almost doubled, making it Africa's fifth producer with an estimated 434.000 barrels per day by late 2006.

- In June 2006, the White Nile Petroleum Operating Company (WNPOC-1) brought the Thar Jath field on-stream in block 5a, with an initial production of 40,000 b/d, after having completed a pipeline, linking Block 5A into the Greater Nile Oil Pipeline.
- Early July 2006, the CNPC completed an expansion of the country's main refinery in Khartoum, enabling the processing of heavy crude from the Fula North field in Block 6.
- The CNPC completed a pipeline linking the Fula North field with the Greater Nile pipeline. Overall production from Block 6 was raised from 10.000 to 33.000 b/d, and is expected to reach 69.000 b/d in 2007.
- In July 2006, the Neem field in Block 4 came on-stream.
- In August 2006, PDOC (Petrodar operating Oil Company) commenced production of the Melut Basin Project in blocks 3 and 7, after having completed a second export pipeline, the Melut Basin Pipeline, linking blocks 3 and 7 with Port Sudan. Production started at 150,000 b/d.

As a result, Sudan's estimated average daily production in 2007 is 617 thousand barrels.

Key Figures

Estimated recoverable reserves at 31 December 2006, in thousands of barrels (proven commercial reserves in producing blocks only)

	Total	Remaining
Block 1, 2 & 4 (GNPOC)	1.686.000	983.000
Block 3 & 7 (PDOC)	803.000	779.000
Block 5A (WNPOC-1)	175.000	168.000
Block 6 (CNPC/S)	331.000	299.000
Total	2.995.000	2.229.000

These figures are estimates only; there are no verifiable data available in Sudan. The margin of error is large. Some sources, for instance, believe that blocks 3&7 may hold 1.3 billion recoverable barrels.

Exploration results outside Upper Nile and South Kordofan have been disappointing. Chevron's two dry wells in block C were matched by five dry wells that APCO drilled in 2005-6, leading to the withdrawal of Cliveden Ltd. Parts of block 6 (CNPC/S) were relinquished in 2005 for lack of prospects to form the new block 17. SUDAPAK 1 failed to find oil in blocks 11 and 14, while WNPOC-3 could thus far not report any findings in block 8. Also, recent re-appraisals in the offshore block 15 indicate a lower pay zone than Chevron's estimation of 10 - 49 bcf of natural gas and 100 - 500 million barrels of condensate. Blocks 12A and 14 are not highly prospective. The three remaining open blocks, 10, 11, and 12B, have attracted marginal interest only, which concludes the modest outlook for the northern part of the country.

Among the non-explored blocks, only 5B (WNPOC-2, contested) and B (Total-led consortium, contested) potentially contain important commercial quantities. Under ideal circumstances and if commercial deposits will be found, block 5B could start producing in 2011 and block B in 2013 at the earliest.

Key Fields Capital Expenditures (US\$ Million) 1997-2006

<i>Consortium</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
GNPOC	96	170	406	95	220	228	167	65	147	144
GN Oil Pipeline	57	321	492	42	41	74	72	109	53	51
PDOC							145	1021	420	185
WNPOC-1								43	278	338
CNPC/S							1137	293	263	234
<i>Total</i>	<i>153</i>	<i>491</i>	<i>898</i>	<i>137</i>	<i>261</i>	<i>302</i>	<i>1521</i>	<i>1531</i>	<i>1161</i>	<i>952</i>

2007-2016

<i>Consortium</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
GNPOC	168	168	168				84	
GN Oil Pipeline								
PDOC	185	133	51	31	21			72
WNPOC-1	108	31	10	5	10			10
CNPC/S	80						51	
<i>Total</i>	<i>541</i>	<i>332</i>	<i>229</i>	<i>36</i>	<i>31</i>		<i>135</i>	<i>82</i>

Costs in 2007 terms.

Due to absence of independently verifiable data and the occurrence of non-measurables (artificial pricing, non-competitive tendering, off-budget payments, and politicised deal making and contracting routines), these figures cannot be fully reliable. The expenditures by GNPOC and for the GN Oil Pipeline seem particularly low, considering the enormous efforts that were made in a short time span and may be partially explained by non-economic internal pricing.

Estimated Oil Production 1997-2006 (in thousands of barrels per day)

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Block 1, 2 & 4 (GNPOC)	6	6	52	194	219	245	268	291	328	316
Block 3 & 7 (PDOC)										66
Block 5A (WNPOC-1)										19
Block 6 (CNPC/S)	2	2	2	2	2	2	2	13	18	33
<i>Total</i>	<i>8</i>	<i>8</i>	<i>54</i>	<i>196</i>	<i>221</i>	<i>247</i>	<i>270</i>	<i>304</i>	<i>346</i>	<i>434</i>

Expected Oil Production 2007-2016 (in thousands of barrels per day)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Block 1, 2 & 4 (GNPOC)	318	310	308	287	250	221	195	171	148	131
Block 3 & 7 (PDOG)	180	180	180	180	180	180	180	180	152	121
Block 5A (WNPOC-1)	50	60	54	46	39	33	28	24	20	17
Block 6 (CNPC/S)	69	96	92	81	72	64	57	50	44	38
<i>Total</i>	<i>617</i>	<i>646</i>	<i>634</i>	<i>594</i>	<i>541</i>	<i>498</i>	<i>460</i>	<i>425</i>	<i>364</i>	<i>307</i>

Only presently producing blocks are given. These estimates do not take into account the growing political and security risks, which are already causing delays and raising costs in blocks 3, 7, 5A and 5B. The estimates about blocks 3&7 are particularly conservative, being based on the assumption that the capacity of the pipeline will not be enhanced.

Model results for a typical Sudanese Production Sharing Agreement, based on the 1997 GNPOC contract

Year	(a) Prod.	(b) Oil price	(c) Capex	(d) Opex	(e) Field reve- nue	(f) Cost oil	(g) Profit oil	(h) State share of (g)	(i) State profit oil	(j) Net cash flow
	'000 b/d	US\$ /bbl	US\$m	US\$m	US\$m	US\$m	US\$m	%	US\$m	US\$m
2004			40.0							-40.0
2005			335.0							-335.0
2006	19.0	50.0	285.0	14.4	294.7	132.6	162.1	60.0	97.3	-102.0
2007	50.0	50.0	61.5	143.8	775.6	370.9	404.7	65.0	263.0	307.3
2008	60.0	50.0	15.8	174.2	930.8	358.5	572.2	67.5	386.3	354.5
2009	56.0	50.0		167.5	868.7	351.9	516.8	66.6	344.3	356.9
2010	50.0	50.0		154.8	775.6	174.1	601.5	65.0	391.0	229.8
2011	44.0	50.0		141.3	682.6	145.3	537.3	64.3	345.6	195.6
2012	40.0	50.0		133.0	620.5	133.0	487.5	63.8	310.8	176.7
2013	35.0	50.0		121.2	542.9	121.2	421.8	62.9	265.1	156.7
2014	30.0	50.0		108.6	465.4	108.6	356.8	61.7	220.0	136.8
2015	25.0	50.0		95.4	387.8	95.4	292.4	60.0	175.5	117.0
2016	20.0	50.0		78.2	310.3	78.2	232.0	60.0	139.2	2.8
2017	16.0	50.0		66.8	248.2	66.8	181.4	60.0	108.9	72.6
2018	13.0	50.0		58.1	201.7	58.1	143.5	60.0	86.1	57.4
2019	10.0	50.0		49.0	155.1	49.0	106.1	60.0	63.7	42.4

a= production

b= assumed oil price

c= capital expenditures

d= operational expenditures, without pipeline costs

e= based on oil price Free On Board Port Sudan, at pipeline cost of US\$6/bbl:

(a) x {(b) - 4.5} x 0.365

f= smaller of: (45% x (e)) and ((d) + depreciated (c) due)

Assuming that the Cost Oil Limit is set at 45% of the field revenues and depreciation is calculated in a straight line over 4 years

g= {45% x (e)} - (f)

h= profit oil = 55% of field revenue.

i= state share of Profit Oil assumed to be 60% at average daily production of 25,000 barrels; 70% at 25,000-50,000; and 80% at greater than 50,000.

j= (g) x (h)

k= (f) + (g) - (i) - (c) - (d)

Typical marginal government take in Sudan from US\$100 million of gross revenues from a 100.000+ b/d field

Gross revenues	100
Cost Oil limit	40
Company cost recovery	15
Excess Cost Oil to Government	25
Profit Oil pool	60
Company % Profit Oil (20%)	12
Government % Profit Oil (80%)	48
Total Company take	27
Marginal Government take	73

With 12% of profit oil going to the company on a total company take of 27%, investments in the currently producing blocks are highly profitable by any standard. A concession that produces between 50.000 and 100.000 b/d, like block 6, the CNPC may, at mid-term, be looking at a profit level close to 25% of total production value.

Oil development in northern Upper Nile, Sudan

The full report "Oil Development in northern Upper Nile, Sudan" can be found on www.ecosonline.org

4.9. Brig. Gen. Philip Thon Leek Deng

Governor of Jonglei State

The oil industry is one of the economic ventures in the world that brings a lot of controversy. Oil development rarely co-exists harmoniously with other local activities in economically, socially and politically emerging countries. The oil industry tends to displace people, livestock and wildlife from their environs, impact negatively on environment due to gas emissions or oil spillages and create tensions and temptations: expectations from local communities for employment, training, markets, delivery of social services, heightens when communities are disadvantages through war experiences.

Jonglei State

Jonglei State has huge oil potentials in almost all eleven counties and two oil companies- ASCOM Sudd Operating Company Ltd. and White Nile Ltd are prospecting for oil, already in their advanced stages in their Seismic survey work and are planning to launch exploration drilling in December 2006 to early 2007. Other companies, Lundin and Total are talking to GNU and GOSS in an attempt to reclaim what they say are their concessions prior to CPA and now occupied by White Nile and ASCOM or work out sharing arrangements.

"Some of these oil companies should understand that Southern Sudan is no longer a no-mans-land as it was before the CPA, ready for grabbing. There are levels of governments and laws in full operation and must be consulted and respected by oil investors and all concerned. While concessions have been awarded by GOSS and GNU, the state and counties are the oil operation scenes and we in Jonglei have been talking with the two oil companies- White Nile and ASCOM – and will do so with any other company in the future, to that our environment is protected and social development projects are implemented through support of oil companies."

Environment

The governments of the State and counties expect companies to:

- Strictly abide and conduct their operations in accordance with internationally recognized health, safety and environmental standards and cause minimum harm to our wildlife, fresh water, fisheries, grazing and agricultural lands, surfaces and water.

- Limit any excessive noise and collect and safely dispose harmful waste products.
- Limit the risk of pollution/impact upon natural environment caused by drilling exploration wells.
- Take steps to prevent pollution of surface and ground waters from contamination by toxic or saline products and that when they abandon wells, take measures to ensure wells are plugged and sealed so they no longer contaminate the surroundings.
- Prevent the discharge of hydrocarbons and take all efforts to limit environmental damage if discharges do happen.
- If they are to re-inject natural gases, conduct in such a way as to minimize the impact on environment and health of the population, flora and fauna.
- Clear evidence of seismic work upon completion, pay fair indemnity to communities and for any proven damage to property as a result of operations.

"Are the presently operating oil companies in the State following these guidelines? No they are not."

This is because there are no environmental laws in Southern Sudan and agreements signed with the oil companies are lacking binding rules or obligations to act on the findings of Environmental Impact Assessments. Existing national legislation on the environment is not effective, often piecemeal in nature, with different departments in charge of different aspects of the environment, who do not feel obliged to coordinate their activities. This institutional framework is very weak.

"I am calling upon GOSS to formulate environmental laws and to commission Environmental Impact Assessment consultancy firms to carry out surveys in Jonglei State and any other States in Southern Sudan to recommend appropriate operations."

Social development

"On the social development aspects, we have been discussing with White Nile and ASCOM the need for social development projects implementation to commence alongside oil exploration activities. We will do so with any other company operating in our State in the future."

The governments of State and counties expect companies to integrate local communities by establishing a wide variety of relationships at all levels, and to contribute to local social development, to create jobs and markets thereby diversifying economies and paving way for post-conflict development. The oil companies are required to institute training programmes for the people in Southern Sudan to be trained in oil industry, and these training programmes are to be spelled out in contracts and should be highlighted in company budgets. Companies are also told to employ the workforce from local communities, except in areas where people are not found locally.

Revenue sharing

"We are calling upon GOSS to review the oil revenue sharing arrangements between GOSS, oil companies (ASCOM and White Nile) and the producing State and counties. The 2% royalty agreed in the CPA should only apply where the revenue is shared between GOSS and GNU. In the case of revenue sharing between GOSS, oil companies and the area of production, we are proposing 5% for the producing county, and 10% for the producing State to share out to none producing counties, and 45% for GOSS to share out to other parts of Southern Sudan and as a contribution to GOSS operations, and 40% to the company. It is only through this wealth-sharing arrangement between us and the oil companies given concessions prior to the CPA, such as ASCOM and White Nile, that there can be enough money for the people of Southern Sudan to receive peace dividends through the oil industry."

I am also appealing to the GOSS to prevail over oil companies to ensure they abide by the international standards of good oil production practice in keeping our environment as they found it and to advance implementation of our social development priorities even if through our future share of oil revenue. We want our people to begin to get peace dividends now."

4.10. Mr. Elia Bioch Kur

MP for Baliet County, Southern Legislative Assembly

"People are talking about the revenue of oil sharing, but I am talking about the life of people. Revenue will be for whom? In northern Upper Nile you see villages destroyed for the purpose of oil, and the same thing for the environment. Cattle will not survive."

Issues:

- Oil companies do not want to employ people from the area. Their attitude to the citizens is very negative. They are using their security machinery on the citizens. They are bringing the northerners and settle them in the area. They want to chase people away from the area. Citizens cannot move freely in that area.
- Names of places in the area are being changed.
"The name is Paloich, but they are trying to change it to Faluja. We do not know what it means; this is coming from the North."
- People are denied water by oil works. Southerners, civilians of the area will die. The river Yale is blocked. The people are suffering from lack of water.
- The area was rich in agriculture, now there is no agriculture left.

"These are real problems, if there is to be war again, it can start from there."

4.11. Hon Ms. Sarah Nyanath

MP for Lungechuk County, Upper Nile State Legislative Assembly

The company in Upper Nile State is Petrodar. This company has its own security, but not sure under which army. It is very complicated for the local authority to deal with this. The guards of the company are armed. They make the work of the commissioner impossible.

"Who is answerable to their behaviour and how can they really be controlled?"

Concerns

The Government or the companies never considered the interests of the communities. They have not protected and respected local community's interest.

"What is the role of communities? The Chinese go around and the communities do not know who they are. The question is how to harmonize the workers of the companies and the local communities. Where does the commissioner come in? The local chiefs? Again we do not have any direct person that we can ask these questions. According to the CPA we should have a representative from the region or State in the NPC, but there is not. I am looking for someone to direct these questions to. (...)

The CPA is implemented by the mouth but not on the ground. If we have peace just for a few individuals or for one side of the country to improve itself and they leave the community behind, we will not continue to support that. Now oil companies can drill to the extent they wish, while during the war this was not possible. (...)

There is the issue of displacement in Melut, particularly Paloich. They constructed a place, without them being consulted why they had to move, and where they would go. This is an agricultural area. (...) What happens after the oil is used up, if the community is not being encouraged to get into agriculture and other means to improve their life? What will happen to the environment after that? (...)

I am concerned about today. Not whether there is pollution in ten years. Today is my concern."

The communities in Upper Nile have three major concerns:

- The people in the area are displaced, they cannot protect themselves. The communities are not being protected and it is not secure for them.
- The State needs its dividend, its rightful share in the resource sharing.
- There should be a regional representative in the NPC.

Women and children

Rape and sexual abuse is common in northern Upper Nile. Case examples are given of women raped by traders from the North. Children suffer psychologically and physically in relation to this. When the traders go back to the North, these women are left behind as victims.

Trade, settlement and religion

The local market is dominated by people from the North. Companies bring in people from the North, and bring commodities with them from the North, even drinking water. The number of traders is increasing, they settle and spread Islam. Before the oil companies came, there was no Islam, now there is. The communities want to keep their native religion and remain Christian.

"I should not be misunderstood. Islam is protected in the North, and even recognized in the Constitution of National Unity. If my people want to protect their religion, it should not be misinterpreted. It is their human rights and this should not be distorted by oil activities coming into the area."

4.12. Rev. Mathew M. Deang

MP for Koch County, Southern Legislative Assembly

People have suffered a lot in Southern Sudan, since 1998, when the government of Sudan made an agreement with Talisman. The people from block 1, 2 and 4 have all been displaced. In early 2001, the Presbyterian Church of Sudan and the people in western Upper Nile launched a civil action in New York against Talisman Energy and Sudan. Just recently the judge in New York dismissed the case against Talisman, stating that the case must be against the Government of Sudan, saying they are responsible for the displacement. MPs want to move a motion in the Southern Parliament that there is a case now between the Government of Sudan and Western Upper Nile. People must be compensated.

"We will continue to ask the Government of Sudan to compensate the people in the areas of oil exploration and we hope the international community will back us."

4.13 Brig. Taban Deng Gai

Governor of Unity State

Oil companies in Western Upper Nile are operating with impunity. They don't respect the rights of the people. They operate as if there are no people in Western Upper Nile. The way the companies dispose the waste water is destructive. This should be addressed by the conference. Before 1983 when Chevron was exploring in Western Upper Nile, there were no complaints because Chevron injected waste water back into deep ground.

GNU and GOSS should speed up the operationalisation of the NPC, regarding regulation on employment and environmental laws, so that local people are employed; currently even guards are brought from the North.

There is no community development in western Upper Nile.

"I am asking whether oil companies are exempted from prosecution. When they commit a crime, they are not prosecuted. Can this conference come out with concrete results to problems facing the people in western Upper Nile?"

4.14. Prof. Dr. Asim El-Moghraby

Sudanese Environmental Conservation Society

Development of Oil in Sudan and Environmental Perspective

"Natural resources are more important than oil."

The classification for the ecological zones of Sudan has not fundamentally changed in the last fifty years. To conserve the ecological system ought to be the basis for the management of natural resources on which we depend for our survival.

Sudan is mainly flat desert. The Sudanese economy is based on agriculture and pastoralist-nomadic livelihood. Resources have not always been available in the right time and right place. Sudan has never achieved food security due to the country's instability. There is a history of bad environmental management. We run through cyclic drought and cyclic famines. There is deforestation. Many species have been lost. Low productivity is the crushing issue.

Development is random and short-sighted. Sudan has produced Poverty Reduction Strategy Papers on its own without consultation or participation of the civil society. There are too many regulations governing the environmental issues: there are 180 orders and regulations governing environmental issues, and they concern 81 governmental institutions belonging to 17 different central government ministries. The regulations are there, but it is just lip service – they lack the will and capacity to enforce it.

Oil production

Examples are given from Block 4 and 5. Major issues:

- The oil is found in the three great wetlands of Sudan. The Sudd is the largest tropical wetland in the world.
- Oil companies have constructed thousands of kilometres of raised roads, without taking the people and their local economy into account. Roads are obstructing the flow of water and distort the cattle movements.
- Heavy deforestation is taking place. The Director of the Forestry Department two years ago estimated that 579 million trees have been cut down in Block 1, 2 and 4. *"Are we forcing the companies to replant? No, we are not"*
- The chosen oil exploration and production practices are in direct violation of existing regulations and laws. No one is taking responsibility for this.
- There are all sorts of pits, flare pits, drilling pits, sewage pits, garbage pits and they are all left behind without care. There is not a single proper treatment for sewage.

Monitoring

There is no commitment towards the environment. There is no communication with local communities. Civil society is weak. There is no monitoring in environmental impact.

Many EIA have been done, but on companies' choice. Not a single EIA has been done on roads. Some pipelines have only been finished for 80%. The Environmental Monitoring Plan is just a requirement, but nobody is taking them seriously. There is no scrutiny or monitoring. Transparency and accountability is crucial.

"The wealth of Sudan lies in the diversity of its tribes, its people and its natural resources. Not in oil. Oil will be gone in a few years and will leave nothing but a dilapidated environment. Sustainable development always needs responsible national environmental policy, comprehensive unified legislations, and integrated and coordinated administration. There is hope, if we put our hands together. This cannot be done without a strong system of education."

4.15. Commissioner Godana Doyo Adhi

Kenya National Commission on Human Rights (KNCHR)

Human rights and corporate social responsibility

Oil-exploration, exploitation, sale, utilization and sharing must be guided by terms that respect the principles of human rights and social justice. Governments bear the primary responsibility for the protection of human rights, but other organs of society, including the private sector, have an obligation to respect and promote human rights, and to create an enabling environment for their realisation. This is not a voluntary commitment, but an obligation under international law.

The CPA offers a solid framework for the realization of social and economic justice and human rights. It is a common responsibility for both state and non-states actors to ensure compliance. It is also imperative that Sudan should at all times endeavour to diversify its economic base and avoid the pitfall of becoming a **rentier** (please explain or give an alternative word) state that is held hostage by oil dependency syndrome.

4.16. Ms. Jeni Klugman

World Bank, Chief Country Economist for Sudan and Ethiopia

Oil: A Curse or Blessing? The Case of Southern Sudan

Context

Southern Sudan is unique among low-income post conflict situations. In domestic revenue per capita terms, with a 2005 projected outturn of \$112 per capita, and a 2006 estimate of \$186 per capita, it is much better off than other post-conflict countries like Timor Leste, with \$22 (2004), or Afghanistan with \$5 (2002/03), or Sudan's Northern states with \$25, or Darfur states with an average of \$15 only. This offers an opportunity to invest considerably in pro-poor development and avert the risks of future conflict. But there are risks, both economic and institutional, associated with the resource curse.

Dutch disease

The term 'Dutch disease' originates from the Netherlands in the 1960s, where the economic boom following natural gas discoveries led to a decline in domestic manufacturing.

Possible sequence: A boom in one export sector, typically a windfall natural resource discovery -> currency appreciation due to increased international demand for Sudanese products (oil) -> imports become cheaper in Sudan, and Sudanese exports more expensive on world markets -> local agriculture and manufacturing become less competitive -> traditional exports collapse due both to internal reallocation of resources and the real exchange rate appreciation, while resources gained from oil exports are not used to promote economic development and poverty reduction more generally.

This however is not inevitable. Countries that have successfully avoided resource curses in the face of an oil boom include Indonesia in the 1970s, Botswana and Norway.

Enhancing governance accountability through civil society involvement

If designed and implemented well, measures to promote social accountability through allowing civil society to influence budget processes, and expenditure monitoring can:

- enhance efficiency and equity of government planning and budgeting
- promote accountability and transparency in public expenditure management.

Information is essential, as is political commitment. Monitoring techniques include: public budget hearings, local workshops and seminars, external monitoring and media awareness.

A multifaceted approach is needed to address the resource curse:

- Macro: assess the extent of misalignment in the real exchange rate against its equilibrium rate.
- Sectoral: examine exchange rate/export price effects in the production decisions of the agriculture and manufacturing sectors, alongside traditional supply side bottlenecks due to weak infrastructure etc.
- Fiscal: look at how the revenues from booming oil exports are absorbed – structure and management of the budget.

Specific additional challenges for GOSS in addressing the resource curse

- Managing revenue volatility over time given virtual total dependence on oil.
- Establishing sound budget management, procurement and so on to ensure effective utilization.
- Ensuring transparency.

GNU Budget Performance 2006

- Revenue shortfalls underscore heavy reliance on the oil sector: actual revenues through June 2006 are at only 82% of plans, with oil revenues only at 69% of mid-year targets.
- Oil volatility translates quickly into total revenue instability, despite increases in non-oil revenue.
- Total spending lower than planned, with pro-poor spending - transfers to the Northern states and Three Areas -- disproportionately affected.

GOSS Commitments: improve budget management

- Working with National Petroleum Commission and the Oil Joint Committees to improve the clarity and predictability of oil transfers.
- Need to establish the legal framework for public resources. (A public finance bill being drafted, to be introduced to Parliament in early 2007)
- Need to establish a transparent procurement system

GOSS Commitments: Accounting and controls

- Expenditure and revenues for 2005 have been fully accounted for and reconciled.
- Establish a Treasury Single Account where all revenues and expenditures of the GOSS can be transparently consolidated and accounted for
- Regular public expenditure review and pro-poor spending and report regularly to Cabinet, Parliament and the public.

GOSS Commitments: Government accountability

- Adopt a code of conduct to ensure transparent public resource management.
- Commissions to promote accountability: established and appointments made in August 2006, but not yet operationalized
- Support supervisory role of Parliament and facilitate establishment of effective media and civil society to ensure access to public information.

GOSS Commitment: Reserves

- Recognized need to build up some financial reserves
- Expected inverse relation between capacity to manage and spend, and resource availability – focus on establishing sector programs that can be expanded to scale.
- Sudan Consortium: Establish clear procedures for accumulation, and drawn down of reserves.
- Select one or two global financial organizations, through a competitive process, to manage GOSS reserves.
- Regularly publish accounts related to reserves management.

Conclusions

The oil boom creates huge opportunities for recovery and development -- revenue to finance the CPA's ambitious program of political decentralization, wealth-sharing, and expanded public services -- but as many countries have discovered, the risk of resource curse is very real.

- With few linkages to other productive sectors, oil does not directly raise incomes for the poor, and may make the poor who rely on agriculture and other sectors that become uncompetitive, worse off.
- Steady increase in world market price for Sudanese oil – from \$ 23/barrel in 2002 to projected \$ 55.3 in 2007 – itself creates risks, including that unsustainable levels of spending are established in the budget in good years that cannot be maintained over time.
- Good governance & pro-poor development key to avoiding the resource curse
 - Building core capacities and establishing the public service
 - Establishing a base for sound public financial management
 - Establishing processes and accounting for intergovernmental transfers
 - Cross-cutting importance of transparency and accountability, and thus the role of civil society in participating in and monitoring public sector decisions.

4.17. Mr. Diarmid O'Sullivan

Global Witness

Extractive Industries Transparency Initiative (EITI)

The Extractives Industries Transparency Initiative is of interest to the conference for two reasons: it is good to know what is happening at the international level and Sudan has made a commitment to the IMF that Sudan may go into the EITI in the medium term.

PWYP and EITI

In many countries there is a lack of reliable public information about the flow of oil revenues to the state from oil, gas and mining companies. The lack of transparency makes it impossible for the citizens of a country to monitor the flow of natural resources and to see that it is used for the best for people. This can obviously lead to gross corruption and waste of resource revenues, and to a breakdown in trust between citizens and governments, which often leads to instability and war.

The Publish What You Pay Coalition (PWYP) was founded by civil society organizations in 2002, based on the belief that citizens of resource rich countries need to know how much money is paid to the government by oil, gas and mining companies.

The Extractive Industries Transparency Initiative (EITI) was launched by the British government in 2003. It is a process which brings government, oil and mining companies and their investors, civil society and international institutions, into the equation: companies should publish what they pay, government should publish their receipts and these should be monitored by independent others including civil society groups. EITI is a conversation between many interested parties.

Why join

Countries join EITI because EITI is becoming more global, and is increasingly recognized as a mark of good governance. A member government will be seen as less corrupt and more stable. EITI could improve the trust between government and citizens, as it tries to tackle corruption and mismanagement of revenues. Companies are starting to realize that they need the trust of citizens if they want to operate for 20 years and concerns for stability are shared by investment funds. They want transparency, because they want companies to be legitimate and accepted by communities.

How to join

In order to join, a government must take a number of initial steps. For example the government must appoint a senior official to lead the implementation, they must agree to work with civil society and they must draw up a work plan, thus becoming an EITI candidate. Some 20 countries are at this stage. This should be followed by a series of transparency reforms in order to become an EITI compliant (Nigeria and Azerbaijan's are the only countries at this stage). At the end of these reforms, details of all flows of revenues in that country should be publicly available and there should be an open and public debate on how to use best the resources. A country will then be visited by a validator; an independent expert to measure the country's reform process, in order to move ahead.

If there is no independent civil society participation, there is no EITI process in place.

What it isn't

EITI does not cover transparency in contracts, in government spending or on social and environmental issues. But at least it provides a platform for dialogue on revenues between governments, companies and civil society. It has some limitations, but is an important tool to start giving confirmed information on revenues.

4.18. Ms. Suzanne Samson Jambo

Coordinator of the New Sudan Indigenous NGOs Network (NESI)

The role of civil society in Sudan

Civil society has been extremely active despite all the curtailing by the Government of Sudan over the years. Unfortunately that also resulted in two civil societies, especially in Khartoum, where we have the Gongo's (Government of Sudan Civil Society) and there is also the real civil society. Southern Sudan mainly has indigenous NGOs, local and national NGOs, who are gradually forming itself into networks and forums, such as NESI.

NESI, together with other civil society has been working since 1998, contributing to the peace process, with a lot of self-driven initiative. In the Declaration of Principles during the IGAD peace process, there is no single mention of civil society, but the CPA begins to acknowledge civil society. Expectations are high, but there is no single opportunity from the government to support civil society in terms of training, capacity, funds, and recognition.

Best practices in oil management

Best Management Practices (BMPs) refer to operating procedures and good housekeeping habits for reducing and preventing pollution. They can help a facility save money, protect the environment and improve community well-being.

"The GNU and GoSS should be encouraged to supervise oil companies to individualize Best Management Practices to their operations and site conditions, and to develop their own solutions for preventing pollution."

The need for transparency and accountability

The law that will establish the structure of the NPC needs to be watertight to the extent that transparency and accountability is ensured. A lot can be achieved if the political will is there.

"For us in the civil society, we urge the presidency to be very intolerant to any act that can directly or indirectly be construed as graft or lack of accountability and/or transparency."

Civil society should be equitably represented and consulted with at the National Petroleum Commission. This will ensure that transparency is ensured and interests of the common person protected.

"CSOs should demand a direct role in the oversight of how funds are received and spent. Civil society groups should be facilitated to, alongside other partners, develop the public's ability to understand and influence the above issues. The GNU and GOSS should publicly disclose payments made by oil companies to them."

Company practices

Civil society should not rest until companies, which violate human rights are scolded at the international level, shamed and prevented from further trading.

"As such, the civil society should be enabled to commission regular assessments of human rights violations and environmental degradation by oil companies and lobby for action on the assessment findings. The media, it is hoped, will not relent in its efforts to expose underhandedness in the oil business in Sudan."

All companies that are active in Sudan should fully assess the full range of impact of its operations, taking into account physical safety, economic sustainability, land rights and human rights, and the provisions and purpose of the CPA.

Questions to be answered if White Nile and Ascom are to win confidence of their stakeholders and the wider society:

- What does your management system look like? Which standards and policies do you apply? Which compliance and control systems are in place?
- How well trained and experienced is your staff in handling the risks specific to your environment and operations?
- Against which standards do you monitor and assess social and environmental impact? How do you assure compliance?
- What's your audit system? How do you assess the performance of your management system? What and to whom will you report?

"We believe that the people of Southern Sudan have the right to know how the oil industry intends to tackle the many challenges it faces and how White Nile Ltd. and Ascom will manage its impact on their lives and the natural environment."

Recommendations

- This conference should not be the last in its kind. A next conference could perhaps be organized in Upper Nile. *"Can the government assist in organizing this?"*
- People should be empowered to know the details of the CPA.
- There is a need for clear admission from GNU and GOSS that civil society need capacity building and training.
- Parliamentarians and government officials need to realize there is a civil society. They need to recognize a need for partnerships and joint work.

"Please talk to us, reach out to us, this is very, very important in the management of expectations. Without us you cannot go very far, and without us you jeopardize going back to war. This is not a threat, but a reality. You are accountable to us."

4.19. Prof. Tingwa

University of Khartoum

Closing remarks

Oil disputes can be resolved through the proper implementation of the CPA. Sudanese leaders need to stick to their commitments. The biggest weaknesses in the CPA implementation are the failure to set up the NPC, the dysfunctional Abyei Commission and the failing security arrangement. The CPA lacks a proper mechanism for mediators, yet mediators should also have a role in how the peace is implemented.

Key measures that need to be implemented in order to deal with the problems:

Contracts

- Legal contracts that were signed during the war should be reviewed, while new contracts should be put in better order.

Exploitation/Environment

- Existing laws should be enforced; companies should be sued in courts, and local communities should be empowered through advocacy, networking and legal aid. People should be enlightened about hazardous materials.

Socio-economic

- Accountability on total oil revenues and proper allocation of 2% of oil revenue to the oil producing states/regions, and remaining 50% to the GOSS. It must be clear what is the 2% to the people in the locality. This must be made accountable.
- Locals should be employed by oil companies.
"Companies need to do much more than just obeying the government."

Human rights/ community relations

- Forcible displacement and impunity must be addressed.
- Companies need to build social relationships with local communities, local authorities, and national authorities and share more information with the different stakeholders.

Transparency and accountability

- Both GNU and GOSS need to share information and be more transparent.

"These problems are not insurmountable. All these issues can and must be resolved, otherwise it is the surest way of going back to war."

Recommendations

The follow-up to the conference should include:

- Setting up a Task Force by civil society and sharing its resolutions with everyone.
- Organizing ensuing conferences on the same topic to be attended by the Ministry of Energy and Mining, the oil companies and the GOSS politicians and executives.

5. Questions and Discussion

5.1 Comprehensive Peace Agreement

Issues raised:

- Implementation and interpretation
- Dissemination and awareness-raising
- Constitutional powers at different levels

Hon Minister Paul Mayom:

"Is the CPA distorted? It is a document and not the property of GOSS. Peace is for all of us, let all of us protect it. Are people able to read it and understand it? Ask civil society to assume this role. GOSS would be willing to support if it is a serious dissemination. Another thing is whether people are willing to read it and understand it. (...) About empowerment, linkages, the constitution speaks clearly about the involvement of all levels. In the formulation of policies and management of the oil sector there is no exclusion, it is a constitutional power. You only have to assume it at that level. So if anybody tells you that you have nothing to do in respect to oil, you open all the pages you have in the Constitution and say look this is where I am, at the village level or wherever. If people are not included, please let us all know."

Hon Minister John Luk:

"Not everyone likes the CPA and they can give you a different interpretation. But the two signing parties NCP and SPLM have the duty to disseminate the CPA. There are different interpretations because of conflicting interests sometimes, so we continue with dialogue."

Sara Nyanath:

"Parliament in the past is just there for the sake of parliament. We are fighting the system, when you come near the executives, they feel threatened. Therefore it cannot change in one day."

MP, Southern Assembly:

"We are just beginning and this is still too early for us. We are making a lot of headway, as legislatives we try to tackle corruption. We created the position of Auditor General, but this person still needs to get into function. We see files of things resolved by the parliament, but not executed. Our share in the oil is not coming as we expected. People don't know how much it brings. Our technocrats we have a few of them, but they cannot yet start the work."

Hon Minister Ms Angelina Teny:

"The CPA in general is about creating a democratic society, all the articles of the CPA and the means to make unity attractive is embedded in ensuring the creation of democratic society during six years. A democratic society has five pillars: the three government pillars, Executive, Legislator and Judicial, Civil Society, and the Media. Legislators have the power to get answers from the GNU. This is your power. Use it, we are obliged to answer. Make sure you get redress. There is no two ways about it. Go for it and take it, I am telling you this."

Minister Al Jazz should be here to listen to people here. He doesn't have to answer, but just so he gets how the people feel about the way he is managing. I can discuss with him but the final decisions rest with him. It would be really good if he could listen to the reality and perceptions. So please use your constitutional powers."

5.2. Oil Sector Management

Issues raised:

- Operationalization of the NPC
- Southern Sudan National Commission on Oil
- Raise of 2% oil revenue to the State in case oil concession allowed by GOSS
- Extractive Industries Transparency Initiative

Hon State Minister Ms Angelina Teny:

"The controversies over the revenues, the NPC, etc. is because of the lack of confidence in the way it is managed. If we start good practice even without waiting for legal provision, it will raise confidence in the way this sector is managed."

On the question whether the South should have its own NPC: actually to have one NPC was a compromise in Naivasha. It is the only protocol that really divides 50/50, it also gives room for a sub-office of the NPC in Southern Sudan. This is one of the issues in trying to operationalize the NPC.

The first NPC meeting on November 6, 2005 went disastrously. Up to now we have not been able to work. We had a number of considerations. I am also a member of the Assessment and Evaluation Commission, which looks at the implementation of CPA and we take a step further: we try to pressure the two parties to really deliver to their obligations they made in Naivasha. We have 3 committees: one deals with security issues, one deals with power sharing, one with the wealth sharing in three areas.

The last has dealt only with the NPC, and transparency in the sector. We have reached a stage now where we collect legal viewpoints. You can use the constitution without it turning into law. You can directly go to the constitutional courts. By not operationalizing the NPC, you are actually in violation of the constitution.

We went as far as setting up political follow-up committees with SPLM and NCP, looking at the aspects of the CPA which are not progressing. These are the actions we are engaging in. The use of constitutional court has not been ruled out yet. We are discussing who could do such litigation, for example on Abyei. This gives you some insights of aspects being put in place to see progress in terms of implementing the CPA.

The Ministry of Industry and Mining is supposed to be the implementing wing of the NPC. If you have the very Minister who sits on top of the implementing agency and make the repertoire, this brings problems. We need to make sure that the NPC does not lose its power. We need to find a way to ensure that this body really does the monitoring of contractual obligations. It has to oversee how they are implemented."

Hon Minister Paul Mayom:

"Whether we raise the percentage to more than 2, based on the fact that the companies were allowed concessions to produce by GOSS that does not fit within the framework of the agreement. It did not provide for wealth and whose contract is provided by GNU or GOSS, but talks about oil produced in Southern Sudan. If the desire is to have more than 2% you direct it to GOSS not the NPC."

Diarmid O'Sullivan:

"In order for Sudan to join the EITI, the GNU has to say it wants to join. Even if the GNU is not ready to enter the EITI, you can replicate the structure in GOSS, and its worth going ahead in GOSS, in order to build public trust. Revenues can be checked by a multi-stakeholder group; what is paid? what is received? As examples of ways you can do it, East Timor and Sao Tome have set up independent multi-stakeholder bodies, which has the right to look into these things and publicize the conclusions. They are

the voice of society. The public trust that can be build through that structure is a very positive thing."

Unidentified intervention:

"Regarding EITI, provision C 19 allows GOSS to enter into international agreements concurrently."

5.3. Petroleum Contracts

Issues raised:

- New contracts following the CPA
- Transparency

Hon Minister John Luk:

"There are no new contracts signed after the CPA, because this has to been done through and approved by the NPC, so some contracts are ready but have not yet come before the commission. Such as block 14 in the far north, this has not been signed so far.

The ones in the South, Ascom and White Nile, some say these are new contracts, if that is a valid argument then they must go to NPC for approval. Some say they are old contracts signed before the CPA. If they are new they must be signed by NPC, if they are old not."

Diarmid O'Sullivan, Global Witness:

"Regarding the alleged need to keep contracts confidential, I asked a Norwegian lawyer how much of a publicized contract can possibly be damaging for a company, and he answered less than 1%."

Jay Park, Macleod Dixon:

"I can confirm what you say. Modern practice in most countries is that companies publish their contract on the website for a bid process. Everyone gets to see the contract. The winner of the contract will be the one that has bid the best term. And most countries publish the results of the bid."

5.4. Jurisdiction and Compensation

Issues raised:

- Legal measures against human rights violations
- Environment protection
- Compensation
- Civil society action
- Changing names of indigenous lands

Hon Minister Paul Mayom:

"Regarding a jurisdiction to sue the company: you can sue them in national jurisdiction. I advise you start with arbitration, because you lose less. You can keep harmony and gain more. You can sue them and start from the State. Nobody is above the law, sue the companies or arrest them if they misbehave. What do you want from me? Would you want me to send police to an alien who has a work permit in your country. If Chinese, Malaysian or India comes, they know they work in your jurisdiction, so you can take measures. Take them.

If the NPC does not take over then GOSS has an obligation to provide protection to the citizens in Southern Sudan, which extends to the environment and psychical and protection of property. We will listen. Those companies are not absolved from liability because they got concessions from GNU. No.

Companies can be prosecuted. Security companies can be prosecuted. The law says the aggrieved go to the relevant institutions. We are not opposed to that. The communities can proceed on their own right. This chance has been given to sue the Government of Sudan and sue the companies in the event of destruction during exploration to life, livestock and so on.

Can the oil producing countries set up courts? No they cannot. Why would you set up courts if you have the state court? I will not allow a parallel system. Use the courts that are there, they will serve you."

Hon Minister John Luk:

"Compensation is left to individuals. Communities should employ lawyers to raise the cases for them. Take both the government and companies to the court. You need to seek compensation and you can get it. You deserve compensation. For those who cannot manage to pay that our National Constitution or the Southern Sudan Constitution is very clear: the government can provide for legal aid. Sudan has been suffering, but you cannot still link this to the colonial legacy. It is with the elite in Sudan that we have problems."

Hon State Minister Ms Angelina Teny:

"The issue of compensation is a hot topic that will come back to politics. There is a Compensation Committee now including a number of concerned institutions in the government, the Ministries of Energy and Mining, Agriculture, Justice etc. they sit and decide, also with the companies. We are still discussing how to address concerns coming from the communities."

Paul Savage, Pact:

"There are things that we can do, even without the companies and government. NESI should lead civil society. Members of the Assembly need to hold the executives accountable on the contracts they have signed. White Nile needs to show its contracts. You are considered a criminal until you show what you are doing, prove you are here not just for the elite, but for the people of Sudan. How is GOSS elite any different from the North?"

It is hugely difficult to do public litigation with all the wait and power that the oil company will bring against the small communities."

5.5. Company Security

Issues raised:

- The use of private security forces

Hon Minister John Luk:

"Once war is over there is no point to have separate security for companies, they are under the protection of the State. States will have to enforce their own powers."

Hon State Minister Ms Angelina Teny:

"If the NPC wants to become operational, this is an area where you begin to regulate. Law is law and protection comes from the police. It is clearly defined that in the oil fields the only security force that should be there is the Joint Integrated Unit in CPA. But we still have problems of SAF members in the oil areas. GOSS should address this issue at different levels."

5.6. Business Operations

Issues raised:

- Oil company standards and operations
- Corporate social responsibility
- Company taxes
- Employment of local indigenous people

Hon Minister John Luk:

"It is fashionable these days for companies to provide some service to communities, this is called Corporate Social Responsibility from oil companies, because they do not want to be seen as not cooperating with the people."

There is no balance of employment in the Petroleum sector, so we are trying to make the balance. During war southerners would not be hired, as companies were afraid they would disrupt operations. But now positive actions should be taken. We do not want to be seen to be quarrelling over the sector because this might scare away people who we want to continue invest in the industry. You better employ people so that this suspicion will go away."

Hon State Minister Ms Angelina Teny:

"How are the operating companies behaving? There is a feeling that they ignore different levels of government in the area of operation. This is because in the Ministry of Energy and Mining there is a rule, we call it the Rules of Engagement, which says that companies can deal only with the Ministry. Even in the Ministry they do not deal with everybody, we have a channel as to how you deal with MEM. So this is not the fault of companies. Usually they deal with the exploration department. It is important that you know this."

This comes to our dialogue with the National Congress, it is a matter of policies. The only guidelines that will allow for good practice will come after the NPC sits and implements and guides the implementer which is in this case the MEM."

It is important for companies to also keep relationships with the people in the areas. They are having a hard time on how to involve the different levels of governments in the management of this sector, on how to engage. The companies are bearing the brunt of it."

The way the Ministry of Energy and Mining has been handling employment is no longer in compliance with the new situation and there is need to revise the way in which it is handled. Employment of 20% in the civil service within GNU is still pending, because the civil service law is not yet active. It has been put forward to the Constitution Review Commission and they are prioritising the laws that need to go to the National Assembly. The example of the Ministry of Foreign Affairs is not followed by others. It is important to improve the technical presence of the Southern Sudanese."

5.7. Environment

Issues raised:

- GOSS dealing with environmental issues
- Publication of EIA

Hon Minister John Luk:

"White Nile and ASCOM are exploring in the sensitive areas, in the wetlands which are declared protected by the United Nations, so these companies have to be very careful operating here."

Hon State Minister Ms Angelina Teny:

"Regarding the environment and handling of waste, this is an area that does not need the NPC to be operationalized, it needs the concerned Government of the State. They have the constitutional power or obligation. It is in their right to take action in this area. Communities should really begin to engage their own government, whether it is the state, local government, GOSS or GNU. We have a department but it is not fully capacitated to deal with the sector. We have to acknowledge that openness is growing now, people are discussing.

Environment and its laws and protection lies with the locality, the district. What needs to be done by civil society such as NESI, by GOSS and others concerned is to empower that level, to have the mandate and responsibility to make sure environment is not abused or destructed. I see a huge gap. I will go for this proposal to GOSS to create an agency – suggested by the Ministry of Environment and Tourism of GOSS, there is need to create an authority on environment. There is a lack of laws and legislation. But there are laws in Sudan, so I don't see it as a vacuum. You have the environmental health act, use it to get a redress. Support communities to get a redress. Use your local courts for support when individuals are affected by such operations. You don't have to go through an international court. We can use our local courts. It may not bring you big economic gains, but you would create awareness that people have the right to bring to account someone who is misbehaving within your locality."

Prof. Asim El Moghraby:

"A lot of Environmental Impact Assessment (EIA) studies have been made, but they are kept secret. Companies do not even read them. There are good regulations but they stop at the Ministry and cannot be publicized or questioned. There should be legal ways to tackle the environmental and human rights impact, nothing is coming back to societies or benefiting the environment."

Jerome Servot, Total:

"As we all know Total is not yet operational. But referring to the statement regarding EIAs not allowed to be distributed: well we don't have any problem to make EIA studies public; this is a commitment, we will make them public. Extractive Industries Transparency Initiative, Voluntary Principles on Security and Human Rights, I can only confirm that Total fully adheres to these initiatives."

5.8. Future Vision

Hon Minister Ms Angelina Teny:

"I have been engaging back and forth to keep the link between the North and South. There is need to look and revise. Sudan has a petroleum law but is not in compliance with the new situation, with the CPA. I propose to the people here: look at it and see what needs to be improved about it.

In the Ministry we are opening up and listening to other viewpoints. We brought in working towards the implementation of the CPA and ensuring that our rights are not violated, but we are also educating ourselves on how to use the instruments that we have to create a democratic society.

I go beyond, we need a vision for policy and strategy, a clear vision on what we want to achieve. I don't know who the key person in GOSS here is, but I propose to the organizers that the outcomes of this workshop is made use of to work out a plan. I will personally take those to GOSS and GNU."

6. ANNEXES

6.1. Civil Society Statement on Conference "Oil and the Future of Sudan"

3 November 2006

PREAMBLE

We, Sudanese and international civil society organizations having met for three days in Juba, on the occasion of the 1st Oil and the Future of the Sudan Conference;

Appreciative of the high level of commitment and participation of the Vice President of the Government of Southern Sudan, H.E. Dr. Riek Machar.

Acknowledging the participation of H.E. Ms. Angelina Teny, State Minister, and Ministry of Energy and Mining the Government of National Unity;

Recognizing the participation of various cabinet and state ministers, members of Parliament, governors and commissioners from the Government of Southern Sudan;

Appreciative of the participation of national, regional and international civil society representatives, national and international NGOs, the United Nations agencies, members of the academia, the private sector, oil companies, the media and professional groups and scholars.

Appreciative of this Conference's initiative organized by New Sudanese Indigenous NGOs Network (NESI) and European Coalition on Oil of Sudan (ECOS);

Cognizant of the fact that the Comprehensive Peace Agreement offers an excellent framework for a just and equitable distribution and management of the oil sector in the Sudan;

The delegates having discussed honestly and constructively Oil exploration in the Sudan, its impact on the Sudanese people, the environment, the economy, the sustainability and success of the Comprehensive Peace Agreement.

Noting with deep concern the above, therefore we hereby request for the following:

Government of National Unity and the Government of Southern Sudan:

- The National Petroleum Commission (NPC) is the most important mechanism towards the realization of equitable oil distribution and revenue utilization. We strongly urge its operationalization. Furthermore, other commissions provided for within the CPA such as the Land commission should be immediately made effective.
- We urge both Governments to embark on an open door policy and consultative approach in the formulations of the Oil sector management including its vision, policies, guidelines and contracts.
- Oil revenue should be geared towards people-driven projects.
- Both governments should respect their commitments made in the CPA and the two constitutions to promote and protect human rights.
- Laws and policies pertaining to the oil industry must steer away from secrecy. We demand for transparent and accountable systems in oil management and all other levels of governance.
- Join the Extractive Industries Transparency International (EITI) and make all payments from the oil sector to the State publicly available.

- Both governments must systematically consult with local communities, civil society organizations and other stakeholders.
- Enact and enforce laws to ensure social corporate responsibilities are complied with by oil companies.
- Governments are responsible to expedite compensation and resettlement of affected communities.

Oil Companies:

- Must practice international corporate business responsibilities.
- Must respect and cooperate with local authorities and systems of governance.
- Should respect local communities and their cultures.
- Must listen to and consult with local authorities, the communities, civil society in social development.
- Ought to operate in strict compliance with international environmental standards and best practices.
- Must respect and strive to implement international labour laws.

6.2. List of Conference Participants

	NAMES	MINISTRY/ ORGANIZATION
1.	Sumael Abujohn	Governor Western Equatoria State
2.	Moses M. Aciek	Ministry of Industry & Mining (GoSS)
3.	Rose Aderolli	UNMIS
4.	Peter Nyaba Adwok	Member Federal Council
5.	James Agul	UNS
6.	Hon. Henry Omai Akolawin	MP Fashoda County, Upper Nile State Legislative Assembly
7.	Alikaya Aligo	
8.	William Amony	UNMIS
9.	Aleu G. Anyang	UNMIS
10.	Caesar Archangelo	Chair- Local Government Board
11.	Dr. John Ariki	AquaFund International
12.	Acuil Banggol	White Nile Ltd
13.	Chance Baruko	-
14.	Abdel Rahim Belal	Sudan Environmental Conservation Society (SECS)
15.	Adam Bernstein	CHF International
16.	Madut Biar Yel	Governor of Northern Bahr El-Ghazal State
17.	Dak Duop Bichiok	Governor of Upper Nile State
18.	Elia Bioch Kur	MP for Bailiet County, Southern Legislative Assembly
19.	Charles Boum	UNMIS
20.	Koang Pal Chang	Sudan Radio Service
21.	Nyang Chol Dhuor	-
22.	Kuer Gideon Dau	New Sudan Women Federation (NSWF)
23.	Rev. Mathew M. Deang	MP for Koch County, Southern Legislative Assembly
24.	Brig. Taban Deng	Governor of Unity State
25.	Dr. Sumaia El Yad	Sudan Environmental Conservation Society (SECS)
26.	Sarah Nyanath Elijah	MP for Lungechuk county, Upper Nile State Legislative Assembly
27.	Aloysius Emoro	Governor of Eastern Equatoria State
28.	Ayeu de Gabriel	
29.	Liz Gaere	Head, Joint Donor Office, Juba
30.	Victoria Garille	Southern Sudan Community Association (SSCA)
31.	Commissioner Godana Doyo	Kenya National Commission on Human Rights
32.	Pauline Gour. W	EC
33.	David Gubek	Ministry of Industry & Mining, GoSS
34.	Diane De Guzman	UNMIS
35.	Al Haj Hamad	Society Human Development Consultative Group
36.	Andrew Hall	Department of International Development, UK
37.	Francois Henepin	Petronas
38.	James Hokans	CHF International
39.	Judith Ianogwa	NESI Network
40.	Aggrey Idris	Nile Commercial Bank
41.	Gilbert Imani	Kenya Television Network
42.	Gulliver Ishamael	Sudan Evangelical Mission
43.	Ann Issa	UNDP
44.	John Itorong	Southern Sudan Law Assembly
45.	Dak Jak Bok	GoSS

46.	Makila James	US Consul General
47.	Suzanne Jambo	NESI Network Coordinator
48.	Mark Jenkins	While Nile Ltd
49.	Kari Jorgensen Diener	CHF International
50.	Katarina Juma	Law Africa
51.	Anthony Kago	Nation Media Group
52.	Felicita Keiru	UNMIS
53.	Liza Khamis	Association for Development and Rehabilitation of Sudan
54.	Richard Khamis	Miraya FM
55.	David Koak Guok	Local Government Board
56.	James Kundu	Ministry of Industry & Mining, GoSS
57.	John M. Kuol	Minister of Transport, Jonglei State
58.	John Kwaje	Africa Organization for relief and Development (AORD)
59.	Lubria Lasu	UNMIS
60.	Brig. Gen. Philip Thon Leek	Governor of Jonglei State (GOSS)
61.	David Lomeding	
62.	Venanzio Loro Ladu	Local Government Board
63.	Victor Wurda Lotombe	Ministry of Environment, Wildlife, Conservation and Tourism, GOSS
64.	Justa Lugala	NESI Network
65.	John Luk Jok	Minister Culture, Youth and Sports, Goss
66.	H.E Riek Teny Machar	Vice-President, Government of Southern Sudan
67.	Moses Machar	Ministry for Energy and Mining, GNU
68.	Anthony Bol Madut	Governor of Warrap State
69.	Eve Majok Dut	Minister, GoSS
70.	Jok Ayom Majak	Minister, Lakes State
71.	Parmenit Makuet	Juba Raha
72.	Maker Deng Malou	MP Malou Duk County
73.	Paul Mayom Akec	Minister of Policy and Security, GoSS
74.	Philip Manut	Ministry of Finance, GoSS
75.	Roger Marklund	Sudan Council of Churches
76.	Asim el Moghraby	SECS
77.	Commas Morris L.	B. M.
78.	Ruth Mukwana	UNMIS
79.	John Allan Namu	Kenya Television Network
80.	Rev. Mathew Tombe Nehemiah	Sudan Mirror
81.	George Ngoha	Sudanese Women In Peace And Development (SWIDAP)
82.	Salah Ali Mohamed Nour	Ministry of Energy and Mining, GNU
83.	Jason Nyaga	NESI Network
84.	Lt. Gen. Mark Nyipuch	Governor of Western Bahr El-Ghazal State
85.	Brigid O'Connor	DAU
86.	Aloisio E. Ogetuk	Governor of Eastern Equatoria State
87.	Arkangelo Okwang	Ministry of Industry & Mining
88.	P. Omalla	UN
89.	Amaliya Omot	NESI Network
90.	Paul C. Onduso	WSRB
91.	Diarmid O'Sullivan	Global Witness, UK
92.	Jay Park	Macleod Dixon LLP, Canada
93.	Luke Patey	Danish Institute for International Studies
94.	Afram Wani Peter	GoSS
95.	Nico Plooijer	Pax Christi/ ECOS
96.	Meredith Preston McGhie	UNMIS, Upper Nile State
97.	Gabriel G. Riam	-
98.	Telley Sadia	CAFOD
99.	Rose Sakala	UNMIS
100.	Paul Savage	PACT

101.	Jerome Servot	Total
102.	Alsir Sidahmed	Media Consultant
103.	Gen. (Rtd) Lazaro Sumbeiywo	Moi Africa Institute
104.	Pro. Taban Loliyong	University of Juba
105.	Right Patrick Taban	NESI Network
106.	Richard Taylor	Joint Donor Office, Juba
107.	Hon. Ms Angelina Teny	State Minister, Ministry of Energy & Mining, GNU
108.	Muma Tiger Fana	-
109.	Rev. Peter Tibi	Secretary General of the Sudan Council of Churches
110.	Prof. Peter Tingwa	Mundri Relief and Development Association
111.	Kerbino Ulol	White Nile Ltd.
112.	Philip Ward	White Nile Ltd
113.	Julius Wako	Daly & Figgis Lawyers
114.	Maj. Gen. Clement Wani Conga	Governor of Central Equatoria State
115.	Humphrey Wattanga	Governors of Unity State
116.	Evelien Weller	Pax Christi/ ECOS
117.	Egbert Wesselink	Pax Christi/ ECOS
118.	Francis Wood	MEDAIR
119.	Mohamed Yazid Saad	Petronas

** The list is based on registration by participants on the first day of the conference. The conference organisers cannot guarantee its accuracy.*

6.3. About NESI

NESI Network is an indigenous civilian body comprised of 67 local member organizations operating in various sectors within Nuba Mountains, South Blue Nile and the 10 states of Southern Sudan; i.e. Warrap, Lakes, Western Bahr al Ghazal, Northern, Eastern Equatoria, Central Equatoria, Western Equatoria, Western Upper Nile, Northern Upper Nile and Jonglei States. The member organizations are categorized into eight sectoral teams depending on their respective thematic sectors of specialization. These are: - Capacity Building, Funds Management, Advocacy & Lobbying, Emergency Preparedness, Gender Equality Mainstreaming, Food Security, Health and Education. Our motto is "*Self-reliance and a dignified lifestyle for our people*". We are facilitators of change, focused on joint efforts towards achieving a just and fair Sudan for all regardless of ethnicity, gender, religion/faith or organizational affiliation. NESI chiefly advocates and lobbies for an efficient and effective civil society in Southern Sudan.

Within our few years of existence (established in March 2000), we have been actively involved in catalyzing the Sudanese civil society through participating in forums aimed at raising awareness and preparing them in the face of post-conflict Southern Sudan. Apart from advocating for sustainable peace for Southern Sudan, NESI continues to spearhead efforts aimed at uplifting and sustaining the dignity, human rights and livelihoods of the local citizenry through the promotion and facilitation of political and socio-economic interventions.

With the signing of the Comprehensive Peace Agreement (CPA) in January 2005 that signalled an end to the many years of armed struggle, it is evident that most Southern Sudanese hope to go back home for reconstruction and rebuilding of their country. In pursuance of its ideals, NESI developed a strategic plan for the next seven years (2005 – 2012). This plan seeks to provide the organization with leverage for engaging partners and stakeholders in proactive and sustainable development initiatives. It is further hoped that these plans will facilitate the formation of an NGO coordination forum as well as symposia for donor organizations represented in the country. The major components of NESI's operations are Advocacy for good governance and sustainable peace in Southern Sudan. Considering the apparent uncertainties regarding the sustainability of the signed peace agreement, the process may take longer than anticipated. NESI has thus deemed it appropriate to develop a Seven-Year strategic plan.

NESI seeks to broaden the funding base for development assistance for indigenous NGOs and initiate an endowment support fund through pool funding. This will help to address issues of development, education, human rights, lobbying, advocacy and disaster preparedness among other initiatives.

Vision

"Empowering Civil Society institutions that serve as a means for sustainable peace, socio-economic reconstruction and community development initiatives."

Mission

"NESI Network exists to facilitate effective and coordinated mobilization of resources and service delivery for sustainable peace, socio-economic reconstruction and community development initiatives for Civil Society Organizations."

Objectives

- To build lasting partnerships in order to forge a strong, effective and democratic Civil Society
- To provide a forum for building effective networks to promote dialogue, collaboration, information exchange and learning experiences

- To focus on Civil Society of the Southern Sudan on integrated programme efforts towards poverty alleviation, gender equity, peace building, human rights observance and participatory governance
- To strengthen the Network's members to enable them perform their duties efficiently and effectively, for the benefit of the needy people, especially women, children and the disabled groups
- To work hand-in-hand with constituent members, representing them locally, nationally and internationally so that the voiceless are heard worldwide
- To enhance public awareness about the Network's roles and responsibilities towards ensuring self-reliance and improving the quality of life
- To pool human and financial resources together to achieve the members' objectives.

Core Activities of NESI Network

1. Secretariat

The main functions of the Secretariat include; facilitation of the members' monthly and sectoral meetings, monitoring network's activities, linking-up NESI Network with other networks and to inform the members about general and specific socio-economic and political issues among other developments in Southern Sudan.

2. Member's Network meetings

The Network conducts weekly, monthly and extra-ordinary meetings, according to the requirements of each. This is in accordance with the members' objectives of creating a forum for dialogue, information sharing and exchange, learning from one another and capacity building among others.

3. Human Rights Monitoring

The members through actual physical presence in Southern Sudan have been able to monitor human rights violations, document and issue public statements, which are distributed worldwide, out crying numerous, gross abuses. The Network has been able to highlight different issues pertaining to the rights and dignity of women, girls and other marginalized groups in their respective programs. It has also promoted self-examination among the members, to help overcome shortcomings in regard to gender inequality, among others.

4. Focused Capacity Building

The network is engaged in various capacity building activities of its member organizations, these includes; organizational development (OD), financial management training, human rights monitoring and documentation training, peace building, CSO leaders dialogue and emergency preparedness among others.

5. Advocacy/Lobby and Civil Society Role

Among the core activities of NESI Network is Advocacy and Lobby. The 18 member organizations that constitute the Team are dedicated to facilitating Advocacy and Lobby on behalf of the entire Network. NESI Network is gradually mainstreaming and forming the role of a strong, efficient and effective civil society in Southern Sudan. It has been able to work towards building a partnership relationship with civil administration and other local authorities in the war torn areas of Southern Sudan. The Advocacy and Lobby Team has been able to monitor Human Rights violations, document and issue public statements and open letters that are distributed worldwide. The Team works closely with reputable and established national and international organizations that monitor Human Rights violations and through information exchange with such organizations, has managed to build a repository of reports and documentation of Human Rights violations in Sudan. The team envisages its role as a major actor in civic education together with other stakeholders during the interim period to empower CSOs and local populations on the content and procedures of the CPA.

6. Food Security

The NESI Food Security Team which is made up of 10 member organizations deals with Food Security issues in an effort to creating a just society where everybody will have access to food and eliminate malnutrition caused by lack of food. This is done in collaboration with all the relevant stakeholders in this field. The Food Security Team also researches into ways of ensuring that food production is sufficient to meet the needs of the people of Southern Sudan

7. Health

The NESI Health Team is made up of 12 member organizations, it acts as the mouthpiece of the Network on Health issues in an effort to creating a just society where everybody will have an equal opportunity in the society/community to participate and be active in health policy issues, decision-making and development initiatives. NESI works hand in hand with the local authorities and other interested NGOs and local communities groups at grassroots levels to improve the health and well being of the people of Southern Sudan. The health sector also engages in activities aimed at reducing the mortality and morbidity rates caused by diseases.

8. Education

The NESI Education Team has 18 member organizations; it seeks to bridge the education gaps for the people of Southern Sudan. With an estimated illiteracy level of approximately 90%, the need for education is very high and absolutely necessary. In an attempt to positively influence relevant authorities, NESI Network has been advocating for improvement of the education system in Southern Sudan, encouragement of girl-child to attend schools and through its member organizations implementing various education projects in different areas of Southern Sudan.

9. Funds Management

The funds management Team is made up of 12 member organizations, it's primary role is to mobilize funds and ensure equitable distribution of the funds to the member organizations. This is in a bid to improve the ability of the member organizations to access funds to implement projects in Southern Sudan. NESI Network through the funds management team has set up internal control systems and also developed appropriate manuals with an effort to setting up a pool fund for the member organizations. The team envisions seeing to it that funds that have been disbursed to the member organizations are properly utilized in a transparent and accountable manner.

10. Gender Equality Mainstreaming

The Gender Mainstreaming Team is made up of 19 member organizations; it works hand in hand with the local authorities, interested NGOs and local communities groups at grassroots levels to improve the socio-economic, political and development status of women & girls and also influence on policy formulation at various levels. NESI spear heads on issues affecting gender environment and mainstreaming this into all other sectors so as to help in addressing the existing gaps. The team also monitors the development on gender issues and develops action plans on improvement of gender equality mainstreaming for the interest of everyone in Southern Sudan.

11. Emergency Preparedness

NESI through the Emergency Preparedness team which is made up of 21 member organizations works hand in hand with all relevant stakeholders to improve the Emergency Preparedness and well being of the people of Southern Sudan. The team's primary role is to mitigate against disaster and emergency situations. The team does this through: -

Information sharing on emergency preparedness and response activities.

Educating the local communities on emergency preparedness activities.

The team seeks to reduce the vulnerability to risk from disasters through preparedness.

6.4. ECOS Business Principles for Sudan during the Interim Period

"Private companies operate in many conflict zones or conflict-prone countries. Their decisions – on investment and employment, on relations with local communities, on protection for local environments, on their own security arrangements -- can help a country turn its back on conflict, or exacerbate the tensions that fuelled conflict in the first place." Kofi Annan to the Security Council, 15 April 2004.

INTRODUCTION

Now that Sudan's Comprehensive Peace Agreement has been signed, Sudan is likely to see rising revenues and strong economic growth. The six-year Interim Period that started half a year after the conclusion of a final Agreement, will be decisive for Sudan's future. It will open up many opportunities for private enterprises to contribute to a peaceful development of the country, while achieving their economic objectives. Now is the time to consider how to do that.

It has become widely accepted among the international business community that companies are responsible, not just for their actions, but also for their impact and their positive and negative implications for regional and global development. There is a strong business case for social and environmental responsibility. There is even a stronger business case for peace and justice. Injustice and violent conflict are bad for business. It is fully legitimate that companies seek to promote peaceful development and the rule of law. Sudan poses both challenges and opportunities for businesses to do so.

Civil wars and undemocratic rule have made it highly problematic for companies to be a force for good in Sudan. The upstream oil business in Sudan stands out for having been at the centre of warfare and gross human rights violations for many years, and will have to thoroughly rethink the way it operates.¹ A comprehensive Peace Agreement will not immediately solve all of Sudan's ills and companies will have to do more than respecting national law and regulations. Non-equitable development, myriad internal strife, corruption, a culture of violence, racism, centre-periphery antagonism, and a legacy of oppressive, arbitrary and unaccountable governance will continue to present stiff challenges. An agreement between the Government and the SPLM will not settle all of Sudan's internal conflicts. Solid companies have a strong social and economic basis; to build that in Sudan, they will have to seek partnerships for conflict prevention, peace building and post-conflict reconstruction.

The question is which principles and activities to adopt in Sudan's specific circumstances. This document proposes an answer. It identifies five priority principles, drawn from three sources, International Law, authoritative voluntary standards for business behaviour, and the provisions and purpose of the Peace Agreement (for details, see below in "Normative Framework"). For many companies these contain nothing new, as they are already committed to respect human rights, combat corruption and promote peaceful development. To ensure respect for these principles in post-war Sudan, we propose a set of 13 activities. Not all companies are expected to carry these out. Companies that are small or have a short-term presence only, will usually have a modest impact on society and some of the proposed activities may be irrelevant to them. One activity is essential for all companies, though, to make an impact assessment. To know what you're doing is

¹ In answer to the special challenges with which the oil industry is faced, the European Coalition on Oil in Sudan (ECOS) developed "Benchmarks for Oil Exploitation in Sudan" in 2002, which was updated in May 2004 as "Benchmarks for Oil Exploitation in Sudan during the Interim Period".

the key to responsible action and the basis for internal and external assurance that a company is on the right track.

The international community invests heavily in Sudan's peace process. Its members cannot accept to let public policy goals be frustrated by private interests. They will have to ensure that their national enterprises which are active in Sudan, have the necessary commitment, understanding and guidance to support the public interest. These principles provide this guidance. To assure understanding, home governments will have to inform their enterprises about international standards, the peace process and related dimensions of doing business in Sudan, for instance through concerted action at the embassy-level and encouragement of companies to make adequate impact assessments. To assure commitment, appeals for voluntary action will not always suffice. Not all companies wish to take the public interest into account and unacceptable behaviour needs to be thwarted by their home and/or host governments.

The European Coalition on Oil in Sudan (ECOS) is a group of over 80 European organisations working for peace in Sudan. It was established when we saw that oil, rather than bringing peace and prosperity to the people of Sudan, caused massive human suffering. A peace agreement may open opportunities to oil companies to work in a responsible manner. The underlying principles for such a policy are generic, and we therefore designed principles that apply to all sectors, all regions and all companies, hoping they will contribute to mobilise the potential of the entire private sector to shape a prosperous and peaceful Sudan.

To keep these principles practical and concise, they focus on those issues that we believe are the most crucial to the positive role that business can play in post-peace Sudan: human rights, peace and security, non-discrimination and accountability.

THE BUSINESS PRINCIPLES

Principles

1. Within the company's sphere of activity and influence, promote, respect and protect human rights and fundamental freedoms, including social, economic and cultural rights, land rights, and the rights and interests of indigenous peoples, minorities, and other vulnerable groups.
2. All business activities are assured to be conducive to peace and equitable development, and to the realisation of the provisions and purpose of Sudan's Peace Agreement.
3. No discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, while actively promoting that the local population sees itself equitably represented, at all levels, in the local workforce.
4. Combat bribery, extortion and all other forms of corruption.
5. Within the company's sphere of activity and influence, promotion of transparent and accountable public financial management.

Activities

1. Prior to any investment decision and at regular intervals, the company will assess its impact on and contribution to the communities that surround its operations and the wider society, with regards to development, peace, security, human rights – including social, economic and cultural rights – and the environment, taking into account its impact on the physical and economic security of the population, on local and national strife and rivalries, and on the realisation of the provisions and purpose of the Peace Agreement. The assessment will draw upon external experts and local communities, and involve government and civil society organisations. It will contain recommendations for action, consultation, and dispute settlement. The company commits itself to share the

assessment with its stakeholders, to implement its recommendations, and to evaluate and update it on a regular basis.

2. The company establishes mechanisms for consultation, dialogue and partnership-building with its stakeholders – including relevant authorities, civil society organisations, communities – resulting in an economic, social and peace action programme, that conforms nationally agreed principles and policies.

3. Establishment of procedures to ensure that the own activities – and to the extent possible those of fellow consortia members, subcontractors and other business partners – do not result in, benefit from, or otherwise contribute to human rights abuses.

4. Monitor and document all breaches of the final Peace Agreement and of the *ius cogens* that occurs within the operational environment and report the findings to the appropriate authorities, or, if this fails to resolve the issue, international governmental and/or non-governmental human rights bodies.

5. When appropriate, considering the company's sphere of activity and influence, engage high-level Government officials in active dialogue about human rights on a regular and timely basis.

6. Within the company's sphere of activity and influence, assurance of safety and freedom of movement.

7. For companies that are active in regions with a history of violence, a shaping of the company's security set-up along the lines of the Voluntary Principles on Security and Human Rights

8. Use of all leverage and influence with the Government and at other venues to encourage the adoption of a comprehensive and transparent revenue management regime; and be alert to those circumstances in which revenue allocation is a potential conflict risk, while promoting that agreed rules and transparent procedures for allocation are in place.

9. Full disclosure of all provisions in cash or in kind equipment or services for military, security, or dual use purposes.

10. Not make payments or otherwise support political or religious parties, factions, organisations, their representatives or related interest groups, or take part in any party politics.

11. Openly fight against bribery, extortion and other forms of corruption and not, directly or indirectly, offer, promise, give, accept, condone, knowingly benefit from, or demand a bribe or other undue advantage to obtain or retain business or other advantage and ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities. Management control systems are adopted that discourage bribery and corrupt practices. Financial and tax accounting and auditing practices are adopted that prevent the establishment of "off the books" or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate.

12. The company will make the ability to uphold and promote these principles and activities a crucial factor in its decisions to enter into or remain in business relationships.

13. The company will report, on a yearly basis, its impact on and contribution to development, peace, security, human rights and the environment, covering the above mentioned principles and activities, an evaluation of the economic, social and peace action programme, and the status of the recommendations of the impact assessment.

NORMATIVE FRAMEWORK

The three sources for these principles and activities are international law, Sudan's Comprehensive Peace Agreement, and authoritative voluntary business principles. In a very poor and war torn country, that struggles with corruption, violence and racism, and has a legacy of oppressive, arbitrary and unaccountable governance, the list of pressing issues is long. We chose to prioritise issues that are directly related to business concerns

and where private actors can make a difference: human rights, peace and security, non-discrimination and accountability.

A International Legal Principles

An exhaustive list of relevant international legal instruments can be found in the Preamble to the UN Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (U.N.Doc. E/CN.4/Sub.2/2003/38/Rev.2 (2003)). From these instruments, we distilled four principles that any individual or other organ of society must address with the most urgency:

1. Within their respective spheres of activity and influence, every individual and all organs of society have the obligation to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognised in international as well as national law, including the rights and interests of indigenous peoples and other vulnerable groups.
2. Nobody shall engage in benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extra judicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law.
3. Security arrangements shall observe international human rights norms as well as the laws of the country or countries in which they operate.
4. Every individual and all organs of society shall respect the public interest, national development objectives, and the rights of local communities affected by their operations.

B The Comprehensive Peace Agreement

Sudan's Comprehensive Peace Agreement contains an important set of values and norms to determine the outlines of the public interest during the pre-Interim and Interim periods. It includes several principles that are relevant to the private sector. They translate into the following general business principles:

1. To promote quality of life, dignity and living conditions of all the citizens without discrimination on grounds of gender, race, religion, political affiliation, ethnicity, language, or region.
2. To contribute to the rehabilitation and reconstruction/construction of the social and physical infrastructure in a post-conflict Sudan.
3. To be sensitive to historical injustices and inequalities in development between the different regions of the Sudan that need to be redressed.
4. To take into account the religious and cultural diversity of the Sudanese people.
5. To ensure representation of all the people of the Sudan in the work force, utilising affirmative action and on the job training to achieve equitable targets for representation within an agreed time frame and the provision of educational opportunities for war-affected people.
6. To provide, as appropriate, compensation/reparations for those who have suffered loss as a result of conflict.
7. To recognise customary land rights and/or law

In addition, the Wealth Sharing part of the Agreement gives specific guiding principles for the oil industry:

"Sustainable utilisation of oil as a non-renewable natural resource consistent with:

- a) the national interest and the public good;
- b) the interest of the affected states/regions;
- c) the interests of the local population in affected areas;
- d) national environmental policies, bio diversity conservation guidelines, and cultural heritage protection principles."

These are partially specified for primary resource extraction as follows.

- a) To study and record land use practices in areas where natural resource exploitation occurs.
- b) To consult with persons enjoying rights in land and to seek their consent in respect of decisions to develop subterranean natural resources from the area in which they have rights, and to share with them in the benefits of that development.
- c) To provide compensation to persons enjoying rights in land on just terms arising from acquisition or development of land for the extraction of subterranean resources from the area in respect of which they have rights.
- e) To assess appropriate land compensation, which need not be limited to monetary compensation, for applicants in the course of arbitration or in the course of a reference from a court.
- f) To respect the right of the communities in whose areas development of subterranean natural resources occurs to participate, through their respective states/regions, in the negotiation of contracts for the development of those resources.
- g) To include the state in which development of subterranean natural resources occurs in the negotiation of contracts for the development of those resources.
- h) Persons whose rights have been violated by oil contracts are entitled to a just compensation. On the establishment of these violations through due legal process the Parties to the oil contracts shall be liable to compensate the affected persons to the extent of the damage caused.

C International Business Standards

Companies are obliged to promote respect for the principles underlying international human rights law. Over the past years, government and business organisations have launched several voluntary processes to promote desirable behaviour. The following ones have gained considerable authority:

- *The Guidelines for Multinational Enterprises* of the Organisation for Economic Co-operation and Development. Another relevant OECD document, which is not voluntary, is the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*.
- *The United Nations Global Compact* initiative which challenges business leaders to embrace and enact nine basic principles with respect to human rights.
- *The Voluntary Principles on Security and Human Rights for the Extractive Industries*. These principles are supported by the United States, United Kingdom, the Netherlands and Norway, all of them deeply committed to the Sudan peace process, while France, the home of Total which hold the largest oil concession in Sudan, is well-disposed towards the principles. Security arrangements being crucial to the peace process and a major challenge for any business activity in Sudan, the Voluntary Principles offer a proven standard for the extractive industries, in which other companies may also find useful guidance. The US and EU efforts to bring peace could benefit from a combined initiative to promote respect for these principles in Sudan.

6.5. ECOS Benchmarks for Oil Exploitation in Sudan during the Interim Period

Six months after the conclusion of the Sudan Comprehensive Peace Agreement (CPA), a six-year Interim Period started that opened up many opportunities for the private sector to be a force for good in Sudan. The CPA did not immediately solve all of Sudan's ills. Non-equitable development, myriad internal strife, corruption, a culture of violence, racism, centre-periphery antagonism, and a legacy of oppressive, arbitrary and unaccountable governance will continue to present stiff challenges to any company that wishes to contribute to peace and equitable development. The upstream oil business in Sudan, having stirred much animosity by being at the centre of warfare and gross human rights violations for many years, will have to thoroughly rethink the way it operates. To adapt itself to Sudan's new realities, it will have to start acting in accordance with the principles underlying international law, the provisions and purpose of the Peace Agreement, and authoritative voluntary standards for business behaviour. The 14 benchmarks underneath are based on these three sources. They are a sector-specific addition to the ECOS Business Principles for the Interim Period that provides companies with a framework with which they can maximise both their own and society's benefits of Sudan's oil wealth. At the same time, it can serve as a measurement of oil companies' commitment to peaceful and equitable development.

Oil companies have a chance to play a positive role in post-Peace Sudan, provided the following benchmarks are met:

Circumstances and Commitments

1. A comprehensive peace agreement effectively ends all targeting of the civilian population and installations in and around the company's operating environment.
2. A formal and effective agreement is reached with all armed sides and factions in the company's operating environment, how the civilian population and installations in the concession area are to be secured.
3. There is unconditional, safe access and freedom of movement in the entire concession area and the company spares no effort to maintain this situation.
4. Support, within the company's ability, to the peace process and mitigation of any potential for conflict where possible. The company will monitor and document all breaches of the purpose and provisions of the Peace Agreement that occurs within its operating environment, report the findings to the international agency that will monitor compliance with the Peace Agreement, and actively engage with high-level government officials to end breaches; if this fails to resolve any issue, it will inform international governmental and/or non-governmental human rights bodies.
5. A binding time frame to shape the company's security set-up along the lines of the Voluntary Principles on Security and Human Rights, and seeking of support from its home government in this endeavour.
6. Full disclosure of all the company's provisions in cash or in kind equipment or services for military, security, or dual use purposes.
7. No discrimination on the basis of religion, ethnicity, religion, gender, or political beliefs, and active promotion of a workforce, at all levels, that reflects the make up of the local population in an equitable manner.
8. Establishment of mechanisms for dialogue and partnership-building with all stakeholders on all aspects of the operation that have an impact on the community, resulting in an economic, social and peace action programme for the concession area, that conforms nationally agreed principles and policies and supports the purpose and provisions of the Peace Agreement.
9. Use of all leverage and influence with the Government and at other venues to encourage the adoption of a transparent and comprehensive revenue management regime; and alertness to those circumstances in which revenue allocation is a potential conflict risk, while promoting that agreed rules and transparent procedures for allocation are in place.

10. Insistence on full disclosure of all net payments, including taxes, royalties, fees and other transactions with the Government and/or public sector entities.

11. Insistence on full disclosure of all Product Sharing Agreements and other agreements with state parties; renegotiations of existing Product Sharing Agreements to include social, environmental and human rights standards, and insistence on these standards for newly negotiated PSAs and all other agreements.

12. Support, in words and deeds, for the voluntary return of all refugees and IDPs who so wish, to their places of origin in and around the concession area, in consultation with international and civil society organisations.

13. Companies that have stakes in concession areas that have seen violent displacement post 1997, publicly commit themselves to initiate or support the implementation of a comprehensive and sufficiently funded plan for compensating victims of violent displacement in their concession area, in agreement with local leaders and civil society.

Assessments and Reporting

14. Prior to any investment decision and at regular intervals, the company will assess its impact on and contribution to the communities that surround its operations and the wider society, with regards to development, peace, security, human rights – including social, economic and cultural rights – and the environment, taking into account its impact on the physical and economic security of the population, on local and national strife and rivalries, and on the realisation of the provisions and purpose of the Peace Agreement. The assessment will draw upon external experts and local communities, and involve government, and civil society organisations. It will contain recommendations for action, consultation, and dispute settlement. The company commits itself to share the assessment with its stakeholders, to implement its recommendations, and to evaluate and update it on a regular basis.

15. The company will publicly report, on a yearly basis, its own and/or its consortium's impact on and contribution to development, peace, security, human rights and the environment, covering all the above mentioned benchmarks, including its success in implementing the Voluntary Principles, an evaluation of the economic, social and peace action programme, and the status of the recommendations of the impact assessment.