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*Analysis*

***Iraq's Water Relations With Turkey: A Legal Perspective***

*The following is a MEES translation of an abridged version of a paper written in June 2009 by Dr Hamid al-Khatib, researcher in international and constitutional law at the Iraq Energy Center.*

**Introduction**

Taking advantage of its position as the source of the Tigris and Euphrates, Turkey has acted unilaterally during the past two years to reduce the flow of the two rivers. Several senior Iraqi officials visited Turkey recently, and their discussions with their Turkish counterparts covered Iraq's urgent need for more water. Turkey responded by allowing a limited increase in the flow of water. However, while assisting in alleviating temporary problems, these talks did not result in a treaty that defines Iraq's share of the waters from the two rivers. Meanwhile, Turkey is proceeding with plans to construct dams and water reservoirs irrespective of how these projects may damage Iraq's long-term interests\*.

The Iraqi authorities have failed to pursue the matter adequately. The Iraqi foreign minister protested to his German counterpart and asked Germany to curtail funding for Turkish irrigation projects on the Tigris and the Euphrates. Baghdad also asked for copies of the projects' documentations and for Turkish officials to meet with their Iraqi counterparts and provide them with the relevant information. However, there was again no reference to the signature of an agreement defining Iraq's share of the waters of the two rivers.

Iraq's Ministry of Water Resources has established a committee headed by a director general with representatives from the Ministries of Foreign Affairs and Environment. The Iraqi parliament has also established a committee concerned with water resources, focusing on the problem of water shortages and declining rainfall. Nonetheless, the problems remain unresolved because of the failure of both the government and parliament to take decisive economic, political or legislative steps, such as:

**1- Economic And Political Measures**

Economically, Iraq could suspend all commercial and economic exchanges with Turkey. It is curious that an agreement on economic partnership valued at billions of dollars annually has been signed with Turkey, without any mention of Iraqi interests in the Tigris and Euphrates. Politically, Turkey has violated Iraqi territory and air space repeatedly, with Turkish troops advancing hundreds of kilometers into Iraqi territory in pursuit of Kurdistan Workers' Party (PKK) fighters. Iraq could resort to regional and international organizations to resolve this problem, such as the Arab League and the US and the UK as occupying powers.

\* Since the 1970s Turkey has pursued large-scale irrigation projects using the Tigris and Euphrates and their tributaries. Accordingly, water has become a source of tension with Iraq. The tension intensified with Turkey's implementation of the Southeast Anatolian Project (GAP). The GAP project also attracted protests from environmentalists and political and media circles worldwide.

## 2- International Law And The Use Of International Rivers

Turkey espouses the theory of absolute sovereignty in dealing with the Tigris and Euphrates, being the source of most of the waters of the two rivers. Hence, it assumes it can proceed unilaterally with the construction of dams, reservoirs, and hydroelectric projects without any consultation with other riparian states. The Turkish position is based on the "Harmon Principle," a precedent established in the dispute between the US and Mexico over the Rio Grande River (\*\*) which led to a substantial reduction in water flow to Mexico.

Many international jurists have expressed reservations about this doctrine:

- a- It equates sovereignty over a national river flowing within one country with sovereignty over an international river which flows in more than one country.
- b- It equates a constant factor, land, with a moving factor, a river, and applies to both the same principle of absolute sovereignty.
- c- It fails to recognize custom as a source of international law, including respect for the historical rights acquired by riparian countries and the importance of usage over a long period of time.

Various principles in international law also do not recognize this theory, for example:

- a- The theory of common property, which argues that an international river is owned collectively by the states through which it flows and that none of these countries can utilize the waters unilaterally without the approval of the other countries.
- b- The theory of absolute regional integration: This holds that an international river is an integrated unit not divided by political boundaries and that countries through which the river flows do not have absolute sovereignty over it, but are obliged to respect the interests of neighboring countries. Hence they cannot divert the course of the river, or stop its flow, or add to or reduce its waters unilaterally. In other words, a country can use the waters in its territory in any way it sees fit, provided it does not damage the interests of the other riparian countries.
- c- The theory of restricted regional sovereignty and absolute regional integration: This theory argues that good neighborly relations establish the terms of reference for the regulation of international rivers, and that riparian countries should take into consideration the interests of the other riparian countries. This theory appears to be more popular than others because it attempts to find a compromise among the various interests of the riparian countries. It has therefore been relied upon more frequently when agreements have been concluded for the use of international rivers, such as the November 1959 treaty between Egypt and Sudan concerning the Nile, the 1960 treaty between India and Pakistan on the utilization of the Indus and the treaty between eight European states concerning the Danube.

International organizations have also been active in this field and since 1951 the UN has paid considerable attention to the subject of international water resources and the regulation of their use. The members of the Economic and Social Council requested the Secretary General to submit a report on the work of the specialized agencies and the other UN bodies in this field, as a result of which the UN secretariat in 1959 established a center to study problems related to water conflicts and suggest proposals to resolve conflicts. The European Economic Community, in its 1952 report *Legal Aspects of Hydro-Electric Development of Rivers and Lakes of Common Interest*, supports the need to respect the rights of other riparian countries.

The International Law Association (ILA) has adopted a similar stance and has tried at several of its conferences to establish rules to balance the interests of the various riparian countries and maximize the benefits from international rivers. The ILA decided at its 1911 Madrid conference that riparian countries cannot divert rivers in their territory or use their waters in a manner harmful to other riparian countries. Moreover articles 2 and 3 of the Institute of International Law's 1961 Salzburg Resolution confirmed that countries can exercise their rights in the part of the river flowing in their territory, provided that no harm is done to other riparian countries. The ILA was more specific about the utilization of international rivers at its 1966 convention in Helsinki, when it confirmed the right of a riparian country to an equitable share of the water in its territory and specified the terms of reference for equitable distribution.

The confirmation of these principles in various resolutions over the years has established a public principle which ensures respect for the rights of riparian countries. The question remains as to how to exercise these rights, since this is the subject of special agreements among the countries concerned.

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(\*\*) In the dispute between the US and Mexico over the Rio Grande river at the end of the 19<sup>th</sup> century, the US Attorney General, Mr. Judson Harmon, issued a statement asserting that "the rules, principles and precedents of international law impose no liability or obligation upon the United States."

In light of the legal precedents, the Convention on the Law of the Non-Navigational Uses of International Watercourses was approved by the UN General Assembly in May 1997. The vote for this treaty was 117 in favor and 3 against, including Turkey which opposed the preamble and most of the articles as well as the whole third chapter. The treaty requires ratification by 35 countries to enter into force, and so far only 16 countries have done so.

### 3- Legal Documents And Iraqi Rights

- a- Article 109 of the armistice agreement signed between the allies and the Ottoman empire at the end of the first world war specified the preservation of Iraqi and Syrian rights in the Tigris and Euphrates on the basis of the principle that rights and commitments are inherited from the past. Turkey thus remains obliged to respect the rights of Syria and Iraq in the two rivers, and any damage to their rights as a result of Turkey's actions would render Turkey liable to pay compensation.
- b- The 1946 Treaty of Friendship Good Neighborly Relations between Turkey and Iraq refers to the usage of the Tigris and Euphrates, the eradication of the threat of floods, the possible locations of reservoirs, and irrigation and hydropower projects that are of interest to the two countries. It also specifies that Turkey should provide Iraq with plans and maps of new projects.

This treaty confirms the legal status of the Tigris and Euphrates and Iraq's rights in the two rivers. The fact the no mention was made to a specific volume of water that should flow to Iraq was due to the frequent floods at the time – the treaty was mainly concerned with flood prevention. However there was no question that Iraq was regarded as a partner in the usage of the water, as demonstrated by the fact that the Turkish authorities committed themselves to inform Iraq about plans for new projects and to provide Iraq with the opportunity to offer advice and study the consequences of planned projects.

In accordance with the various agreements cited above and with Iraq's historical rights, as well as with the basic principles of international law, the Turkish government should take the initiative in inviting Syria and Iraq to sign an agreement preserving the rights of riparian states in accordance to the principles of justice and the UN Charter.

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## Reports

### ***Water Shortage Threatens Two Million People In Southern Iraq; Power Supply To Nasiriyah Drops To Half Because Of Falling Levels Of Euphrates River***

"A water shortage described as the most critical since the earliest days of Iraq's civilization is threatening to leave up to two million people in the south of the country without electricity and almost as many without drinking water," according to Martin Chulov, writing for *The Guardian* from Nasiriyah (*The Guardian*, 26 August, 2009). Mr. Chulov adds "An already meager supply of electricity to the Iraqi city of Nasiriyah has fallen by 50% during the last three weeks because of the rapidly falling levels of the Euphrates River, which has only two of four power-generating turbines left working."

The lower level of the Euphrates in southern Iraq is already raising the salinity level of the water and reduced the supply of the drinking water for around 3,000 people north of Basra. "For thousands of years Iraq's agricultural lands were rich with planted wheat, rice and barley. The land was 100% in use. This year less than 50% of the land is in use and most of the yields are marginal. This year we cannot begin to cover even 40% of Iraq's fruit and vegetable demand." Salah 'Aziz, director of planning in the Ministry of Agriculture, told *The Guardian*.

Iraq's water shortage is most visible in the marshlands, located in the southern part of the country – north of Basra. The Euphrates tributaries have dried and do not have sufficient supply to feed the marshes, if the present situation continues. As a matter of fact, the Euphrates level has dropped more than 1.5ms.

The Minister of Irrigation, Dr. 'Abd al-Latif Rashid has estimated that up to 300,000 marshland residents are on the move, many of them newly uprooted and heading for nearby villages and towns that can offer them little support.

According to Dr. Rashid, "In the last 20-30 years our neighboring countries have built a number of structures for collecting water or diverting water for their agricultural lands. In some cases, they have diverted the path of the river for their internal use. This has had a very damaging effect. We have a large number of branches of the Tigris that we share with Iran. In most their volumes are low or completely dried up. In 2006-07, the marshlands reached 75% of original levels. Now the surface water is around 20%. Water resources have this year become not only serious, but critical. Iraq has not faced a water shortage like this."

## What Will It Take To Solve Iraq's Water Crisis?

"It will take an international effort to solve Iraq's water crisis," wrote John Roberts, a rivers, irrigation and agriculture consultant in Iraq from the mid-1960s to the mid-1990s. Mr. Robert wrote in *The Guardian* (10 September, 2009), in response to Mr. Chulov's article. He told Mr. Chulov: "Your article on water shortages in southern Iraq is a timely reminder of the conditions facing a devastated rural community. It draws attention to those still affected by the wars that have raged over the last 20 years. The need for action is desperate," adding that "The destruction of the Iraq marshes and the way of life of the Marsh Arabs has long been acknowledged, but awareness of the destruction of agriculture and rural life in the irrigated lands of the Euphrates and Tigris are less well known."

The problem lies with the fact that, "No significant action on these problems has ever been taken. A program of reconstruction and development to match the 20 years of destruction now needs to be given top priority," proposed Mr. Robson, while referring to the crisis in the marshlands in particular and the water shortages in the south in general.

Mr. Robson suggests that "Farming and cultivation under the harsh climatic conditions of Mesopotamia require exceptional technical and management skills. A fresh approach is now needed to raise irrigated agriculture to a new level. By comparison, conditions for rain-fed agriculture in northern Mesopotamia are far more favorable."

"The lack of an international agreement on division and operation of the Euphrates and Tigris Rivers between Turkey, Syria and Iraq demonstrates that it has been a low priority. But examples of working agreements exist (such as the Niles Water Agreement between Sudan and Egypt), and the situation is not irretrievable. Turkey requires its water mainly to generate power, plus some irrigation for agriculture during the slightly dryer summer season."

"Historically there is relatively little need for diversion of supplies to the foothills along the Syrian border. Syria has relatively little river plain, and has never been a major abstractor. Similar conditions apply to the Tigris. But as a historic downstream user, Iraq's water needs must be internationally recognized. On the southern Iranian rivers flowing into the Iraqi marshes, a broad strategy for agreement could be drawn up, bringing more stability to this long-disputed area. "Mr. Robson added, "There is wide national and international responsibility for the tragic conditions under which the rural poor of Iraq are now living. Now is the time for effective international help."

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## Fuelling Mistrust – The Need For Transparency In Sudan's Oil Industry

A Report By Global Witness - September 2009

### Summary

*The Comprehensive Peace Agreement specifies how Sudan's oil revenues should be divided up between north and south. The problem is that the southern government cannot verify that the oil figures published by the Khartoum government are correct.*

### Background

In 2005, a historic peace agreement brought an end to Africa's longest-running civil war – the 22-year conflict between north and south Sudan. Tensions over the distribution of the country's vast oil wealth had been a driver of the conflict, but oil also helped to provide a key to its resolution. The peace agreement specified that revenues from southern oil wells should be shared between the Khartoum government in the north and a newly created government in the south, offering hopes for a fairer distribution of wealth and a peace dividend after decades of war.

**"If I was in [the southern government's] shoes, I'd be suspicious  
[of the amount of oil revenues received] too" A diplomat<sup>1</sup>**

Four years on, there is much at stake. The national government in Khartoum publishes figures on its earnings from the oil industry. But the problem is that it is not possible for the southern government or civil society to verify these figures. All of the southerners that Global Witness' investigators spoke to suspected that the figures were incorrect. Even the World Bank states that transparency in the Sudanese oil sector is 'unusually weak' in comparison to other oil-exporting developing countries which are often not very transparent themselves.

The fact that the southern government cannot verify the oil figures published by the Khartoum government fuels mistrust between the two already-mistrustful sides. Accurately calculating the southern share of the oil revenues is crucial: the oil comprises 98% of the southern government's income, more than any other government in the world. Southern Sudan holds claim to being the poorest place in the world. If the peace holds and the oil wealth is managed properly, this could massively improve people's lives in the south.

In two years' time, the wealth-sharing agreement will come to an end and a referendum will be held on southern independence. A new revenue-sharing deal must be struck whether the result of the referendum is unity or independence. If the result is unity, Southern Sudan will need to be allocated a fair share of the country's revenues. If the outcome is independence, the new country will be landlocked and will depend upon the north to export its oil, something that Khartoum could refuse or make prohibitively expensive. If southern oil is to be exported, there will have to be some cooperation with the north. Moreover, there will de facto be some form of revenue sharing between north and south, if only in the form of pipeline fees. A return to conflict looks all too likely. Armies are already massing on either side of the border. During the 22-year conflict between north and south Sudan, 1.5 million people were killed and four out of every five people in the south had to flee their homes at some point.

In cases where natural resources have fuelled a conflict, it is important that they also play a part in the post-conflict reconstruction. The Comprehensive Peace Agreement in Sudan helped ensure that the country's oil revenues would be shared more equitably between north and south. But this agreement now looks to be in danger of collapsing.

Unless the suspicions surrounding the sharing of oil are resolved, the very element that helped secure the peace could also be its undoing. The key players must engage now, or the historic achievement of the peace agreement runs the risk of falling apart, thus setting the scene for a return to conflict.

### Ten Key Findings

- 1 The oil figures published by the Khartoum government do not match those from other sources.** These figures determine the revenues disbursed to the Government of Southern Sudan. The Khartoum government has reported that a smaller volume of oil was produced in southern oil blocks than is reported by the company that operates the blocks. It is not clear which set of figures, company or government, are the correct ones, but the discrepancy highlights the need for the oil figures to be independently verified. The southern government received \$2.9 billion in oil revenues in 2009 and the discrepancies revealed here are of the order of 9%-26%, so if any underreporting by the Khartoum government is found the sums of money owed to the southern government would be large.
  - The volume of oil that the Khartoum government states was produced in blocks 1, 2 and 4 in 2007 is 9% less than that stated in the annual report of the company operating these blocks, the Chinese National Petroleum Corporation (CNPC).
  - The volume of oil that the Khartoum government states was produced in blocks 3 and 7 in 2007 is 14% less than that stated in the annual report of the company operating these blocks, CNPC.
  - The volume of oil that the Khartoum government and other sources<sup>1</sup> state was produced in blocks 1, 2 and 4 and block 6 in 2005 is 26% less than that stated in the annual report of the company operating these blocks, CNPC.
  - The volume of oil that the Khartoum government states was produced in the only oil block which is located entirely in the north and therefore not subject to revenue sharing between north and south, is approximately the same as that stated by the operator of the block, CNPC
  - The oil prices published by the Ministry of Finance in Khartoum and those published in the oil industry press for sales in the same month do not match.
- 2 Neither the southern Government nor Sudanese citizens are able to verify whether the oil revenues received from the Khartoum government as part of the peace agreement are correct.** It is the Khartoum government that compiles the figures on how much oil is produced and the price for which it sold. The revenues owed to the southern government can be deduced from the figures published by the Khartoum government, but the deduction will only be correct if the underlying oil production and sales figures are correct. The southern government is not involved in these processes. The ability to verify that the oil revenues received from the Khartoum government are correct is important not least because they make up 98% of the southern government's income.
- 3 The oil is marketed by just one of the governments that share in its revenues – the Khartoum government.** This makes it impossible for the southern government to verify that the price stated by the Khartoum government for which the oil was sold is correct. The pricing of some of the sales of Dar blend, when it first came onstream in 2007, raise suspicion. In February 2007 there were four sales that went for between 15 and 23 cents a barrel, despite the fact that Dar blend in the previous month sold for more than a hundred times this amount. At times, the Khartoum government has sold oil via closed tenders in which only Chinese companies were able to bid.

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<sup>1</sup> The CNPC annual report states the combined volume of oil produced in blocks 1, 2, 4 and 6. The Khartoum government published figures for the volume of oil produced in blocks 1, 2 and 4 in 2005 but did not publish figures for block 6. For the purposes of this analysis, three estimates of the volume of oil produced in block 6 were obtained and the largest figure – actually a figure published by CNPC – was used.

4 **The southern government does not receive half of the oil revenues from southern oil wells.** The Khartoum government deducts a three percent 'management fee' from revenues shared with the south. It seems difficult to justify this fee as the Khartoum government already receives half of the revenues from southern wells. Pipeline fees are also deducted. In August and September 2008 these amounted to between three and eight percent of the value of the governments' oil. It is not clear who receives these fees: the companies that operate the pipelines, the Khartoum government or both. In addition, the state-owned oil company, Sudapet, which owns equity stakes in all the Sudanese oil blocks, does not share its profits with the south.

**"The [southern government] leadership has been throwing around accusations of oil revenue cheating much less. The best informed still complain though"** A diplomat<sup>2</sup>

5 **The oil consortia employ oil service companies which come from the north of the country and are widely believed to be linked to the Khartoum ruling party.** The oil consortia claim back the costs for employing these companies; the more costs they claim, the less that is left over for revenue sharing between the governments. If it is true that the service companies are linked to the ruling party in Khartoum, a larger share of the oil revenues goes to the north than is specified in the peace agreement.

6 **There is insufficient oversight of the oil revenues. In Southern Sudan, there is no Auditor General, despite this being a constitutionally required post.** There is insufficient oversight of the millions of dollars of oil money transferred to the oil-producing states, and little visible evidence of what this money has been spent on.

7 **Both the national and southern state oil companies, Sudapet and Nilepet, are set up such that the same people are responsible for selling oil and regulating the sale of oil: a clear conflict of interest.** At present, Sudapet, despite being a substantial oil-producing company, does not publish annual reports or accounts.

8 **The Khartoum government owes the southern government millions of dollars in oil revenue arrears.** As of March 2009, the arrears due to the southern government, excluding those due from Abyei, amounted to \$180 million. In addition to this, there are also arrears due to the southern government from the Abyei oilfields as even though the ruling of the tribunal of the Permanent Court of Arbitration found some oil fields to be outside Abyei, there are still some productive oil fields inside the area.

9 **The Khartoum government does not publish all of the figures upon which the revenue sharing depends, and those that it does publish are often published late.** At times, the most recent data available have been two years out of date. The oil companies' investment costs are not published, despite these having a large impact on the governments' revenues from oil. The revenue available for sharing between north and south is only what is left over after the oil companies' costs have been deducted. Opening the oil companies' costs up to scrutiny is in the interests of both the Government of National Unity and the Government of Southern Sudan: in other countries oil companies have been found to over-claim the amount of cost oil, leaving fewer revenues for the government.

10 **Oil revenues from Abyei, a disputed area in central Sudan, are divided according to a slightly different formula than the oil revenues from the south.** Determining the boundaries of the Abyei area has been controversial, but in July 2009, the governments in the north and south and leaders of the Misseriya and Ngok Dinka tribes accepted a ruling of a tribunal of the Permanent Court of Arbitration in The Hague.

In this report, maps showing the locations of the Abyei oil wells in relation to the various definitions of the boundaries of Abyei are published for the first time.

### **Main Recommendations**

- **The oil production and sales figures upon which the revenue sharing depends should be verified by independent third party audit and by legislation that requires oil companies to disclose their payments.** The audit should go back to 2005, to the start of the wealth-sharing agreement, and its results should be made publicly available. The proposed legislation would create two sets of figures: what the companies say they pay and what the government says it receives, allowing one set of figures to be verified against the other. This would allow both parties to the peace agreement as well as Sudanese citizens to have more confidence that the financial transfers made under the wealth-sharing agreement are correct, which is essential to building trust between north and south.

**"It's likely they [the southern government] are being cheated"**

A senior diplomat<sup>3</sup>

- **An agreement should be reached on what happens to the oil revenue sharing and oil-related contractual arrangements when the peace agreement ends in 2011.** The money that currently makes up 98% of the Government of Southern Sudan's income is due to stop in two years time, whether the south votes for unity or independence. If the south votes for independence, they will have to rely on oil pipelines going through the north of Sudan to export oil; the chances of building a pipeline to export oil via a different route are zero in the short term. An agreement needs to be reached now on how north and south will cooperate to export oil post-2011, come unity or independence. Any proposed revenue sharing post-2011 should include independent third party monitoring, funded by Sudan's donors. The international community should prioritize persuading the national and southern governments to reach agreement on these issues before the referendum.
- **Both parties to the peace agreement should be involved in overseeing the marketing the country's oil and approving the oil companies' costs.** At present, it is the Khartoum government that does both of these things despite the fact that the revenues from the oil belong to the Khartoum, southern and state governments.

### Who The Recommendations Are Aimed At

The recommendations outlined in this report are primarily aimed at the Sudanese governments – both the national government in Khartoum and the southern government in Juba. In addition, the recommendations are also in the interests of a number of other countries and institutions. These groups, the main ones of which are listed below, should help persuade Sudan of the need for more transparency.

**“CNPC brings us not only petroleum but also peace”** Sudanese President  
Omar al-Bashir<sup>4</sup>

- **China:** China gets five percent of its crude oil from Sudan.<sup>5</sup> A Chinese state-owned company, China National Petroleum Corporation (CNPC), is the biggest equity partner in all but one of the currently productive oil fields in Sudan and has made substantial investments in oil exploration, drilling, pipelines and export facilities. Renewed conflict in Southern Sudan threatens China's energy security and its investments. It is in China's interest to use its influence in Sudan to help reduce risks of conflict, including by helping to promote the recommendations outlined in this report.
- **Japan:** Japan is one of the main purchasers of Sudanese oil,<sup>6</sup> which has its uses both in its refineries and as fuel for power stations. A significant number of the world's refineries that can deal with the highly acidic Sudanese Dar oil blend are in Japan (There is also a significant number in the United States but these refineries cannot purchase Sudanese oil because of sanctions.) Japan should use the leverage that this near monopoly on refining Sudan's most abundant oil provides them to help persuade Sudan to adopt the recommendations outlined in this report.
- **Norway:** Norway provides oil-related technical assistance to Sudan via its Oil for Development program, including a full-time Petroleum Envoy who provides advice to the north and south. Norway should have clear conditions in place as to what measurable improvements in good governance and human rights it expects from Sudan and the other countries it works with. It should publish these requirements and regularly report on the targets that have and have not been met. Without such conditions, Norway risks squandering the opportunity its development assistance provides to create long term effective change.
- **USA:** The United States helped to broker the Comprehensive Peace Agreement. It recently hosted talks between the signatories of the peace agreement and is reviewing its own policies on Sudan. It has significant leverage in the north and south and should use this to promote transparency of oil revenues.
- **The international guarantors named in Sudan's Comprehensive Peace Agreement,** including the UK, Italy, the Netherlands, the League of Arab States, the African Union, as well as Norway and the United States. These countries and institutions signed up to help ensure the full implementation of the peace agreement, an agreement which is now faltering. If conflict breaks out again between north and south it will be countries and institutions such as these that will be expected to help pick up the pieces.
- **The International Monetary Fund:** The IMF has authored a Guide on Resource Revenue Transparency which provides advice on the best practice for managing such revenues transparently.

## Report Structure

This report is divided into sections looking at different transparency-related oil issues. The first and second sections look at the need to verify the volumes of oil produced and exported and the price for which they are sold; at present they cannot be verified, creating a situation in which mistrust can flourish. Global Witness has analyzed the oil production, exports and oil price data to see if the figures published by the national government stand up to scrutiny. The results of the analysis on the volumes of oil produced raise serious questions about the accuracy of the published figures.

The third section looks at verifying the costs claimed back by the oil companies for their investments, costs which directly impact on the amount of revenue left over for sharing. The fourth section looks at the need for oversight of the revenues in the national, southern and state governments and the final section looks at the need to put in place a framework for oil and wealth sharing after the 2011 referendum, when the peace agreement, and hence the current revenue-sharing agreement, comes to an end.

In addition, the report also looks at revenue sharing in Abyei, a contested oil-rich region in the centre of the country for which there is a slightly different oil revenue-sharing agreement. The boundaries of this area have been disputed. In this report, maps showing the locations of the Abyei oil wells in relation to the three definitions of the boundaries – those of the Abyei Boundaries Commission, the Abyei Roadmap and the findings of the tribunal of the Permanent Court of Arbitration – are published for the first time.

## Oil Blocks In Sudan<sup>2</sup>

Sudan has licensed more than 1.1 million square kilometers for oil exploration, more than any other African country.<sup>8</sup> The map shows the locations of the Sudanese oil blocks. Only four consortia currently produce any oil:<sup>9</sup>

- Blocks 1, 2 and 4 are operated by the Greater Nile Petroleum Operating Company (GNPOC), a consortium of Chinese, Indian and Malaysian state-owned companies and the Sudanese state-owned company, Sudapet.<sup>3</sup> The first oil exported from Sudan, in 1999, came from these oil blocks, of the relatively high quality Nile blend. According to reports produced by the Khartoum government, the blocks currently produce around 180,000 barrels per day, although the Unity and Heglig fields are in decline.<sup>10</sup> The blocks span both north and south Sudan and cover part of the contested area of Abyei, meaning that some of the oil from these blocks is subject to revenue sharing with the south, some with Abyei and some retained entirely by the north. <http://www.gnpoc.com/>
- Block 5A is operated by the White Nile Petroleum Operating Company 1 (WNPOC- 1), a consortium of Indian and Malaysian state-owned companies and Sudapet.<sup>4</sup> Nile blend oil is formed from a minimum of 90% of the crude from blocks 1, 2 and 4 plus a maximum of 11% of the crude from block 5A. This means that production in block 5A is limited to 11% that of blocks 1, 2 and 4 - in other words, around 20,000 barrels per day. All of the block is within Southern Sudan and therefore subject to revenue sharing between the north and south. <http://www.gnpoc-sudan.com/>
- Block 6 is operated by Petro Energy,<sup>5</sup> a consortium which is virtually all owned by the Chinese state-owned oil company, CNPC, plus Sudapet. It produces about 40,000 barrels per day of the extremely poor quality Fula blend crude.<sup>12</sup> The pipeline from block 6 currently only reaches Khartoum and so all of the oil from block 6 is currently refined within the country for domestic use. The block is entirely in the north and therefore not subject to revenue sharing between the north and south. <http://www.petroenergy-ep.com/>
- Blocks 3 and 7 are operated by the Petrodar Operating Company (PDOC),<sup>6</sup> a consortium of Chinese and Malaysian state-owned oil companies, a Kuwait-based company, and Sudapet. It produces the most oil by volume of all the blocks – currently around 200,000 barrels per day according to the Khartoum government<sup>13</sup> – though the crude, Dar blend, is of a low quality: it is heavy and acidic with a high arsenic content.<sup>14</sup> All of the oil fields within these blocks are within Southern Sudan and therefore all the crude is subject to revenue sharing. <http://www.petrodar.com/>

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<sup>2</sup> Unity State is the official name used by the national government; the Government of Southern Sudan prefers Western Upper Nile State. The state boundaries on the map are taken from a 2006 map of the UN Office for the Coordination of Humanitarian Affairs

<sup>3</sup> GNPOC is owned 40% by China National Petroleum Corporation (CNPC), 30% by Petronas, 25% by ONGC Videsh (a 100% subsidiary of Indian state-owned Oil and Natural Gas Corporation) and 5% by Sudapet.

<sup>4</sup> WNPOC-1 is owned 68.875% by Petronas, 24.125% by ONGC Videsh and 7% by Sudapet.

<sup>5</sup> Petro Energy is sometimes known as CNPCIS. It is owned 95% by CNPC and 5% by Sudapet.

<sup>6</sup> PDOC is owned 41% by CNPC, 40% by Petronas, 10% by Sudapet, 6% by Sinopec and 3% by Tri-Ocean Energy, a subsidiary of Kuwait's Kharafi Group [African Energy, Issue 155, 23 January 2009 and <http://www.petrodar.com/partners.html>].

The vast majority of the rest of the country is also divided up into oil blocks. Exploration is taking place in most of these, although the chances of finding commercially viable quantities of oil or gas are considered to be low in most blocks. The only European oil companies having stakes in Sudan are the French major, Total,<sup>7</sup> and a Moldovan company, Ascom Group.<sup>8</sup> In addition, the Swedish company, Lundin, holds stakes in block 5B but has recently announced that it has pulled out of the country because of poor exploration results.<sup>15</sup> Other European companies are involved in the oil services sector.

### Introduction

Sudan is rich in oil. Most of the oil is in the south of the country, and yet Southern Sudan holds claim to being the poorest place in the world: 90% of its people live on less than a dollar a day, more than in any country that has reported to the United Nations' work on the Millennium Development Goals.<sup>16</sup> A higher percentage of mothers die in child birth in Southern Sudan than in any country of the world,<sup>17</sup> one in eight of its children do not make it to their fifth birthday,<sup>18</sup> and those that do have less access to primary schools than in any country in the world.<sup>19</sup>

In some ways north Sudan does not fare much better. Nearly as many children die young,<sup>20</sup> and only a fifth of children complete primary school.<sup>21</sup> Half of its people live on less than a dollar a day – considerably better than in Southern Sudan, but still amongst the poorest people in the world.<sup>22</sup>

How can it be possible for a country to be rich in oil yet for so many of its people to be so poor? Part of the answer to this question comes down to the inequalities in the distribution of the country's resources, which have tended to be concentrated in Khartoum and the Nile valley at the expense of the peripheries of the country. Such inequalities were one of the causes of the conflict between north and south Sudan (as well as contributing to the conflicts in Darfur and the east of the country). Oil first started to be exported during the north-south civil war; its revenues helped fund the Khartoum government's war efforts, and military control over the oil fields quickly became central to both sides' war efforts.

However, a peace agreement in 2005 brought to an end the north-south civil war – one of Africa's longest and bloodiest. The Comprehensive Peace Agreement shares power and wealth between the north and south, with former adversaries sharing office in a Government of National Unity in Khartoum. The wealth that is shared is the country's oil wealth: a semi-autonomous Government of Southern Sudan is mandated to receive half of the net revenues from all southern oil wells. Thus, the peace agreement carries the hopes of millions for a fairer distribution of wealth, and a peace dividend after decades of war. The stakes are high: if the agreement collapses, the likely return to conflict could see Africa's largest country fall apart with all the ensuing misery and loss of life that that will entail.

With most of the currently operational oil wells in the south of the country, the wealth-sharing agreement adds up to a lot of money: the Government of Southern Sudan has received over \$6.5 billion in oil revenues since the signing of the Comprehensive Peace Agreement.<sup>23</sup> Such revenues form 98% of the southern government's income,<sup>24</sup> making it the most oil-dependent government in the world.<sup>910</sup> In fact, the oil income of the southern government arguably adds up to more

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<sup>7</sup> Total holds block B, though the contract was suspended as a result of the conflict and has not yet been resumed because Marathon had to pull out of the consortium because of American sanctions and a new equity partner has not yet been found.

<sup>8</sup> Ascom Group claims rights over block 5B. Block 5B was allocated to the companies that comprise WNPOC-2 by the Sudanese government, but also subsequently allocated to Ascom Group by the southern government or people within the southern government. The National Petroleum Commission, set up by the peace agreement to arbitrate on such disagreements, ruled in 2007 that Ascom should be put 'in consideration' to be used 'within the group of companies that provide petroleum services in Block (5B)'. No agreement between WNPOC-2 and Ascom has yet been reached; both companies are exploring the block. In a similar dispute between Total and the British company White Nile in block B, the National Petroleum Commission ruled that the British company should pull out.

<sup>9</sup> Kenya's government receives revenues of \$5.924 billion for a population of 39 million [CIA World Factbook], making funds of \$152 per person. The Government of Southern Sudan received oil revenues of \$2.8 billion in 2008, and about \$1.4 billion in 2007. Its population is disputed but if 8.2 million, as the reported results of Sudan's first census since 1956 show [Sudan Tribune, 14 April 2009], this implies funds of \$341 per person in 2008 and \$171 per person in 2007.

<sup>10</sup> For example, Africa's largest oil-producing nation, Angola, garners nearly 90% of its budget from oil revenues [http://go.worldbank.org/M69ZBBCQ00]. Nigeria gets 85% of its budget from oil [http://go.worldbank.org/FIOT240K0]. Even in the oil-rich Gulf states, such as Saudi Arabia, the world's largest oil exporter, and its smaller neighbor Kuwait, oil accounts for 80% of government revenues [https://www.cia.gov/library/publications/the-world-factbook/geos/ku.html, https://www.cia.gov/library/publications/the-world-factbook/geos/sa.html].

money per person than in neighboring Kenya, the regional economic power.\* It is difficult to exaggerate what a change this money could make. For example, Southern Sudan has less than <sup>25</sup> 50 kilometers of paved roads even though its territory is slightly larger than that of France and Belgium combined.

The oil revenues are also large in north Sudan. Indeed, they generate substantially <sup>26</sup> more money than donor aid. In the past five years Sudan as a whole has received <sup>27</sup> \$2.2 billion from donor countries, about a third of the amount that the country received in oil money in 2008 alone.

**“Resources and common wealth of the Sudan shall be shared equitably”**

Interim National Constitution of the Republic of the Sudan

The wealth-sharing protocol of the Comprehensive Peace Agreement was signed at Naivasha in Kenya on 7 January 2004. The details of the agreement specify the setting up of an account to help stabilize revenues and the transfer of oil revenues to the Government of Southern Sudan and to oil-producing states. A separate agreement for the area of Abyei specifies a slightly different revenue-sharing formula

The revenues that are shared are from the sales of all of the oil production, had it been exported. In fact, some of the crude oil is sold to local refineries at a subsidized price, but the revenue-sharing formula assumes that this oil was exported in order that the southern government does not pay for this subsidy. There is much misunderstanding on this point. In the south, Global Witness’ staff frequently heard it stated that the southern government misses out on a share of its oil revenues because of these subsidies, which is not the case.

### **Oil And Conflict In Sudan**

For more than four decades, Sudan was caught up in a north-south civil war fought over ideological, cultural and religious differences. The north of the country is predominantly Muslim and the south predominantly Christian or animist. The war claimed nearly two million lives and resulted in nearly 80% of southerners having to flee their homes at some point, <sup>28</sup> but received little coverage in the western media. The causes of the conflict were tied up with the inequitable distribution of resources in the country: Khartoum, located in the north of the country, is a middle-income city, with gleaming towers of glass and steel and a large, well-educated middle class. Juba, now the capital of Southern Sudan, is very different. It has only two paved roads, regular power cuts and the new hotels that are springing up everywhere are so short of skilled southern Sudanese labor that they often employ people from neighboring Uganda as receptionists and waiters.

Oil became intricately linked to the north-south conflict. When the war re-started in 1983, it was already known that there were significant amounts of oil in the south, although it was not until 1999 that the first oil was exported from the country. The revenues from this oil transformed the ability of the government to fight the conflict; indeed, <sup>29</sup> a former finance minister has said that more than 70% of the government’s share of oil profits was spent on ‘defense’.

The Sudan People’s Liberation Army announced that the new pipeline, the oilfields and oil company workers would all be regarded as legitimate military targets. <sup>30</sup> Hundreds of thousands of civilians were killed or forcibly displaced from around the oil fields by <sup>31</sup> forces allied to the government, and oil company infrastructure, such as airstrips, was used by the Sudanese armed forces.

For more information, see reports by, for example, Christian Aid, <sup>32</sup> Human Rights Watch <sup>33</sup> and the Harker report which was prepared for the Canadian government.

The next section looks what the peace agreement says about how the oil revenues should be divided up.

### **How The Oil Revenues Should Be Shared**

The peace agreement contains detailed instructions on what should happen to the governments’ share of the oil revenues. It is only the governments’ ‘net revenue from oil’ that is subject to sharing. Not included in this are the oil companies’ share of the oil revenues, as determined by the Production Sharing Agreement nor the management fees and transportation fees that are deducted from the governments’ share of oil revenues. Once the companies’ share and the fees have been deducted, what is left over is the governments’ ‘net revenue from oil’.

The peace agreement specifies that some money from the governments’ net revenue from oil should be placed in a joint north-south savings account, the Oil Revenue Stabilization Account (ORSA). In order to determine how much money is put into the account, a benchmark price is agreed annually by the Khartoum government as part of the national budget. The extra revenues generated from any exported oil sold above this price are put into the shared account. For example, if the benchmark price is \$65 a barrel and a sale is made of 1 million barrels at \$75 a barrel, then \$10 million should be put into the ORSA.

Next, 'at least' two percent of what is left should be allocated to the governments of the states from which the oil came.<sup>11</sup> Finally, after payment to the ORSA and to the oil-producing states, the peace agreement specifies that half of the net revenue from oil wells in Southern Sudan should be allocated to the Government of Southern Sudan. The national government keeps the remaining half and all the remaining revenues from oil wells in northern Sudan. There is a slightly different formula for sharing oil revenues from Abyei, an area in central Sudan. The recent slump in oil prices has caused severe financial difficulties for both the national and southern governments. Both the governments' 2009 budgets are based on oil prices of \$50 per barrel,<sup>35</sup> yet Sudan's oil was significantly cheaper than this in early 2009.<sup>36</sup> As a result, the governments' total oil revenues for February 2009, for example, were about a tenth of what they were just a few months before.<sup>37</sup> The deputy finance minister in the national government in Khartoum, Al-Tayib Abu-Gnaya, said that 'We barely covered [our expenses] for the first quarter in the budget. We still had to borrow from the banks.'<sup>38</sup>

The southern government is even more dependent on oil revenues, and has had to cut its budget by almost a third from the previous year.<sup>39</sup> Despite this, donors still estimate that the southern government's income is likely to be 40% less than the budget,<sup>40</sup> although the recent rise in oil prices will help to counter this to some extent. The fall in income makes the generation of a visible peace dividend - the most obvious means of making unity attractive<sup>12</sup> - even more difficult than before.

**"There is room for improvement [in the implementation of the wealth sharing protocol] in terms of increasing transparency and, consequently, confidence by both sides"**  
Assessment and Evaluation Commission, the internationally chaired body created to monitor implementation of the peace agreement, July 2008<sup>41</sup>

The Deputy Special Representative of the UN Mission in Sudan has stated that the fall in income is having consequences in terms of stability, making the election and referenda processes more volatile.<sup>42</sup> All of this comes at a time when the peace agreement is looking more shaky than ever: the UN Special Representative to Sudan, Ashraf Jehangir Qazi, said in May 2009 that more people had died from violent conflict in Southern Sudan than in Darfur in the previous few months.<sup>43</sup>

### **The Need For Transparency**

The current wealth-sharing agreement comes to an end in 2011, when the south votes on whether to remain part of Sudan or to become an independent country. A new wealth-sharing agreement will be needed whatever the outcome of the referendum.

If the country remains unified, Southern Sudan will need to be allocated a fair share of the country's resources. If the south votes to secede, it will be landlocked and will depend upon access to pipelines in north Sudan to export its oil. In any case, there will have to be some form of revenue sharing between north and south if oil is to be exported, if only through the imposition of pipeline fees. Transparency will be needed to implement any such revenue sharing agreement without the potential for mistrust or misunderstandings on either side.

### **What The Comprehensive Peace Agreement Says On Oil Revenue Sharing**

The Comprehensive Peace Agreement was signed on 9 January 2005 and brought an end to 22 years of war between north and south Sudan.<sup>44</sup> It is the summation of six agreements signed from 2002 to 2004 as a result of negotiations mediated by the Intergovernmental Authority on Development, the East African regional development organization. It is an agreement between only two parties - the ruling National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM), the main southern rebel group. None of the opposition political parties or other armed groups were party to the agreement. The agreement sets out a timetable for national elections in July 2009<sup>13</sup> and a referendum on independence for the south in 2011.

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<sup>11</sup> The Khartoum government states that 2% of oil revenues are transferred to the state governments of Southern Kordofan, Upper Nile, and Unity. However, it is not clear whether 2% of oil revenues are transferred to the state government of South Darfur, where some block 6 oil wells are located. Although block 6 is entirely within the north, and therefore its revenues are not subject to sharing between north and south, the 2% to the states from which the oil derives still stands

<sup>12</sup>The peace agreement created a six year 'interim' period between 2005 and 2011 in which both parties were to work towards 'making unity attractive'. It is in the interests of the north in particular to make unity attractive to the south and therefore avoid southerners voting for succession in the referendum in 2011.

<sup>13</sup>The elections were delayed until February 2010 and have been delayed again until April 2010 [*Sudan Tribune*, 1 July 2009]

The agreements provide for the sharing of political and financial power between the NCP and SPLM. An autonomous Government of Southern Sudan was set up,<sup>14</sup> along with a power-sharing Government of National Unity in Khartoum that gives representation to the Sudan People's Liberation Movement and other groups.<sup>15</sup> The first vice president of the country is also the president of the southern government. Control of the national ministries was divided between the two signatory groups.

There are three areas within northern Sudan with a large proportion of residents who sided with the south during the conflict: Abyei, the Nuba Mountains and Blue Nile state. The peace agreement includes special protocols regarding these 'Three Areas'. It gives the residents of the Abyei area the right to vote on whether to retain their special administrative status in the north or become part of the south.

The peace agreement requires the military forces of the national and southern armies to withdraw from southern and northern territory, respectively, and for Joint Integrated Units to be formed. It also sets targets for the number of southerners to be employed in middle- and upper-level positions in the national civil service.<sup>16</sup> These targets are far from being met. This is not just an issue of providing employment for a section of society that has long been underemployed; it is also needed to help build trust between north and south over oil revenue sharing.

The peace agreement has proved resilient to the many challenges that have come its way, including the SPLM pulling out of the power-sharing government in October 2007 and conflict in several parts of the country. Despite this, however, it remains fragile: the census results upon which elections depend are contested, the north-south border is not defined, violence has killed numerous people in Abyei and Southern Sudan, the elections remain possible flashpoints of violence, and the International Criminal Court's issuance of an arrest warrant for President Omar al-Bashir has been followed by additional instability. Beyond all this, the big unanswered question remains as to how to prevent a reversion to conflict if the south, with the majority of the country's oil, votes to secede in two years' time. All this happens at a time when both sides are rearming, spending perhaps half of their income on their militaries.<sup>45</sup>

The Government of Southern Sudan currently gets 98% of its income from oil, a higher percentage than any other government in the world, possibly higher than any other government in the world ever. If the south becomes an independent country and manages to continue to export its oil, there is an all too clear risk that the new country will fall into the same trap that has afflicted so many other developing countries that, despite being oil-rich, have citizens who are dirt-poor. Throwing more light on a country's oil income is the first step needed for citizens to be able to hold their government accountable for the management of their revenues.

The national government publishes figures on its earnings from the oil industry but the problem is that it is not possible for the southern government or for civil society to verify these figures.

Lots of southerners believe that their government does not receive the full amount of oil money specified in the peace agreement. 'We get 50%, but 50% of what?' is a phrase Global Witness heard again and again in Juba, reflecting the fact that total oil revenue figures, upon which the south's share is calculated, are not regarded as credible. The Government of Southern Sudan has frequently complained that the process of determining oil revenue shares is not transparent. Salva Kiir, the President of <sup>46</sup>Southern Sudan, stated in November 2007 that his government was not receiving the proper amounts of oil revenue.

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<sup>14</sup> Parliamentary seats in the Government of South Sudan are accorded in the following percentages: 70% SPLM, 15% NCP, 15% other southern parties.

<sup>15</sup> Parliamentary seats in the Government of National Unity are accorded in the following percentages: 52% NCP, 28% SPLM, 14% other northern parties, 6% other southern parties.

<sup>16</sup> The Interim National Constitution says that the National Civil Service Commission shall "ensure that not less than twenty percent of the middle and upper level positions in the national civil service, including the positions of undersecretaries, are filled with qualified persons from Southern Sudan within the first three years of the Interim Period and achieving twenty five percent in five years..."

The World Bank points out that transparency in Sudan's oil sector is 'unusually weak, in comparison to many oil-exporting developing countries,' an astonishing statement given that oil-exporting developing countries are not in general known for their transparency. In particular, they point out that 'the Ministry of Energy and Mining does not produce detailed statistics or reports about the sector or about project developments, the state oil company provides no public accounts, and there is very little information about business developments from the companies operating in Sudan'.<sup>47</sup>

When the southern signatory to the peace agreement, the Sudan People's Liberation Movement, (temporarily) pulled out of the power-sharing government in October 2007, one of the main concerns they cited was lack of transparency over the oil revenues.<sup>48</sup> Global Witness spoke to MPs in the Southern Sudan Legislative Assembly who felt that it was the key reason for the crisis.<sup>49</sup>

Global Witness' investigators heard much misinformation about the sharing of the oil revenues, in both Khartoum and Juba. It is commonly believed by people, including those whose jobs touch on the oil sector, that no figures are published on the amount of oil extracted or exported, or that only percentages are published, not absolute values. Perhaps this is not surprising given the fact that the published figures have been so out of date. Such perceptions matter: misconceptions feed mistrust and mistrust paves the way for conflict.

The Sudanese governments should make greater efforts to explain to people how the oil revenue sharing works. It is not enough for the national government to publish figures; people need to know that they are being published. Amongst countries that give aid to Sudan, Norway is the one most involved in the Sudanese oil sector. Norway's work includes funding a petroleum<sup>50</sup> envoy, providing capacity building and technical assistance via a Memorandum of Understanding signed in 2008, and being one of its Oil for Development program's 'core cooperation countries' (see box for problems with this).

The petroleum envoy provides advice to both the Government of National Unity and the Government of Southern Sudan, has access to recent oil figures, and helps oversee the production of the oil figures by the Khartoum government. It is not enough for one diplomat to be able to check the figures though: the lack of trust between north and south makes it even more important that Sudanese citizens get to see that the figures are correct.

Norway claims that it has been 'able to assist<sup>51</sup> [the southern government] in verifying that the oil revenue sharing is done in accordance with the [peace agreement]'. But it is not clear how it has been possible to verify the underlying oil figures, and it is not enough for a few diplomats and government officials to have checked the figures; their veracity must be visible to all.

**"We want oil to be a blessing in developing countries – not, as has often been the case – a curse."**

Then International development Minister of Norway Hilde F. Johnson<sup>52</sup>

### **Sudan: A Problem For Norway's Oil For Development Program**

Norway has played a leadership role on transparency issues. In 2005, Norway launched the 'Oil for Development' program, a major new initiative to improve transparency and accountability in the management of oil, gas and mining revenues. 'We want to promote the use of oil income to reduce poverty in Africa and other parts of the world. We want oil to be a blessing in developing countries – not, as has often been the case – a curse,' said the then International Development Minister Hilde F. Johnson.<sup>52</sup>

Sudan is one of the Oil for Development program's 'core cooperation countries' with a budget of \$3.6 million.<sup>53</sup> Its program is likely to be worth far more to the Sudanese government as it includes technical assistance on how to extract more oil from oil fields than is currently being recovered.

Yet Oil for Development has stated on its website and in its 2007 annual report that, in order to be considered a long term core cooperation country, there must be 'well-documented political commitment to good governance, including transparency'. It has also stated that there is a requirement for there to be a respect for human rights and the rule of law,<sup>54</sup> or for these to be on a well-documented course towards improvement.

These conditions do not apply to Sudan, a country for which the World Bank describes the oil sector as being 'unusually weak' in terms of transparency, and where the International Criminal Court has issued an arrest warrant for the President on charges of war crimes and crimes against humanity.

The Oil for Development website no longer states these requirements. Global Witness wrote to Oil for Development to ask whether their policies on who they work with had changed. They replied that 'OfD is likely to make a difference only where there is a minimum standard of governance or where the program will strengthen the level of governance' and that these 'have been basic premises from the start of the OfD program and are still guidelines for the program'. It is unclear from their answer whether good governance is a requirement for OfD cooperation or whether it is just something that would help make a difference. It is also unclear from their answer whether the requirement for there to be a well-documented respect for human rights is still in place.

Norway's technical assistance in petroleum development is offering something of real worth to the Khartoum and Juba governments in Sudan. Thus, the Norwegian government has a unique leverage with which to do good and to promote transparency and accountability in a sector which is notorious for the absence of both.

If Norway's policies have changed, and it no longer seeks to tie its assistance to good governance reforms then that leverage will be wasted and, even worse, there is a clear risk that they could exacerbate existing problems. If its policies have not changed, then it would seem engagement in Sudan is in conflict with its existing objectives. Either way, Norway should now provide clear conditions as to what measurable improvements in good governance and human rights it expects from Sudan and the other countries it works with to clarify its terms of engagement. It should publish these requirements and regularly report on the targets that have and have not been met. Without such conditions, Norway risks squandering the opportunity that its unique technical and development assistance provides to create long term effective change for the good of ordinary citizens of countries like Sudan who so rarely see the benefits of oil exploration.

This is not the first time that Global Witness has taken issue with Norway over its Oil for Development program, despite the fact that Global Witness has received funding from this program. In particular, Global Witness has questioned the way that the Oil for Development aid has been given to highly corrupt countries such as Cambodia and has previously pushed for governance and transparency benchmarks to be made a core criterion for the continuation of assistance.

### **The Global Move Towards Greater Transparency**

Over the past decade there has been a number of initiatives aimed at improving the management of natural resource revenues by promoting transparency. Such initiatives are particularly important in developing countries, where revenues from natural resources are often the most obvious means of pulling the country out of poverty.<sup>55</sup> Indeed, there are around 60 developing countries that are dependent on revenues from the oil, mining and gas sectors,<sup>55</sup> not to mention those that are dependent on resources such as forestry and fishing. The problem is that natural resource revenues, unlike, say, revenues raised from taxing citizens, do not help to make a government accountable to its citizens and are all too often squandered on grandiose projects or pocketed by corrupt officials.

In an attempt to counter this, in 2002 the UK government launched the Extractive Industries Transparency Initiative (EITI), a coalition of governments, companies and The Extractive Industries Transparency Initiative aims to strengthen governance by improving transparency and accountability in the oil, gas and mining sectors civil society groups that aims to strengthen governance by improving transparency and accountability in the extractives sector. Twenty-seven countries have signed up to the Initiative, including countries devastated by conflict such as Liberia and Nigeria. Global Witness has a seat on its board.

Sudan has shown some interest in this initiative: senior civil servants from the National Ministry of Energy attended an EITI conference in Tunis in 2008 at the invitation of Total, a member of the EITI.<sup>56</sup> In addition, a first meeting of the UN Global Compact in Sudan in December 2008 led to a proposal of follow-up activities including sharing experiences about EITI.<sup>57</sup>

However, if Sudan were to apply to become a candidate country for the EITI it would be unlikely to be accepted as all stages towards compliance require full engagement of all stakeholders,<sup>58</sup> including civil society. The Sudanese government does not currently allow civil society or the media a free voice.

Another transparency-related initiative is the IMF's Guide on Resource Revenue Transparency,<sup>59</sup> which it launched in 2005. The Guide provides advice on the best practice for managing resource revenues transparently.

Whereas the EITI focuses primarily on the transparency of revenue payments and receipts, the IMF Guide also looks at wider issues such as dealing with volatile revenue flows.

In addition, a group of high-profile economists, lawyers and political scientists have recently launched a Natural Resource Charter. The Charter is set of principles aimed at policy makers in resource rich countries on how to better manage natural resources revenues,<sup>60</sup> including ensuring that the exploitation and use of natural resources is transparent and subject to public oversight.

**“The oil situation in Sudan is akin to loaning your cow to someone, full of milk only to find that she’s been given back to you with all her milk gone”**

Senior Southern army official, alleging that the north has been pumping southern oil as quickly as it can in case the south becomes independent<sup>61</sup>

### **Verifying Oil Production And Export**

In order to divide up the oil revenues according to the peace agreement, it is necessary to know, among other things, how much oil is produced in southern oil wells. The national Ministry of Finance<sup>62</sup> and the Bank of Sudan<sup>63</sup> publish figures on their websites on the volumes of oil produced and exported.<sup>17</sup> A committee set up by the peace agreement and staffed by civil servants from Khartoum and Juba, the Joint Technical Committee for Oil Revenue Distribution, meets monthly to review and approve these figures.

The information they receive includes a letter signed by the office of the Director General of the Ministry of Energy and Mining that states the production figures. There are a number of problems with the figures though. Neither the southern government nor the southern representatives of the Joint Technical Committee on Oil Revenue Distribution nor Sudanese citizens are able to verify that the published oil production figures are correct: they have to take them on trust. If the figures are wrong, the amount of money that the southern government receives is wrong. Southerners uniformly distrust them; the lack of ability to check the figures is one of the main causes of the lack of trust. In addition, the figures are published late, often very late. Most of the 2007 data and all of the 2008 data were not published until April 2009.

Global Witness has carried out an analysis of the oil production and oil export figures published by the Ministry of Finance and Bank of Sudan in order to provide an indication of whether they are accurate, and therefore whether or not the oil revenue sharing is based on the right data.

### **Analysis Of Oil Production Figures**

The oil production figures published by the Khartoum government were compared to figures published by the oil companies themselves. The government figures were taken from data prepared by the Ministry of Finance in Khartoum for the International Monetary Fund and published on the Ministry’s website. The majority of the oil company figures were taken from official annual reports of the China National Petroleum Corporation, the operator of three of Sudan’s four productive oil blocks. Comparisons were possible for the blocks run by the Greater Nile Petroleum Operating Company, Petrodar and Petro Energy, but not for the White Nile Petroleum Operating Company.

### **Greater Nile Petroleum Operating Company, 2007**

(blocks 1, 2 and 4 which are subject to revenue sharing)

The oil production figures published in the 2007 annual report of CNPC,<sup>64</sup> the operator of blocks 1, 2 and 4, were compared to those published by the national Ministry of Finance for blocks 1, 2 and 4.<sup>65</sup> The annual report states that ‘Daily oil production remained at 270,000 barrels’.<sup>66</sup> The Ministry of Finance states figures on oil production in terms of barrels per month. When converted into barrels per day, the minimum production in 2007 was 230,130 barrels per day (in November) and the maximum was 256,273 barrels per day (in March). In other words, even the most productive month according to the government was less productive than the figure published by CNPC. On average, throughout the whole of 2007, the Ministry of Finance in Khartoum states that production was 245,614 barrels per day. This is 9% smaller than the figure presented by the operator of the oil blocks.

There are other data, however, that paint a different picture. These data come from a slide show presentation put together by the Greater Nile Petroleum Operating Company.<sup>67</sup> Note however, that this is not an official publication of the

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<sup>17</sup>The Bank of Sudan’s website contains information from 2005 and 2006 only. More recent information is found on the Ministry of Finance’s website. The exact details of what data are published have varied slightly over time, but generally include, among other things, the total volume of oil produced by each block (except block 6 which is located entirely in the north and therefore not subject to revenue sharing); a declaration of the percentage of the oil produced that comes from southern wells; the volume of the governments’ share of oil that was sold to local refineries; and the volume of the governments’ share of oil that was exported (i.e. not including the volume of oil exported by the oil companies). The exports data are usually broken down into the volumes of each individual shipment. Information on the price of the sales is also given – see section 2 of this report.

company and that there were a number of issues with the presentation. Data for production in one of the ten oil fields (El Harr) was missing, and two copies of the presentation had to be obtained in order that missing slides could be found. Moreover, the dates to which the oil production data applied were not stated, and some of the information published elsewhere in the same presentation has been alleged to be wrong.<sup>18</sup> However, for the sake of completeness, the data are presented here. According to the GNPOC presentation, production was 4.82 million barrels per month.<sup>6819</sup> According to the national Ministry of Finance production in the same blocks was more than 6 million barrels per month.

As noted, information on production from one of the oil fields was missing from the oil consortium's declaration of production, but in order for the two sets of figures to match, this missing field would have had to have been 50% more productive than the most productive of the listed fields, which seems unlikely.<sup>20</sup> Curiously, the volume of oil production stated in the slide show presentation is smaller than the government data, whereas the oil production in the CNPC annual report is larger than the government data. This is difficult to explain, especially given that CNPC is the majority owner of the company that produced the slide show. The two sources, however, are not equally authoritative as one is an official annual report and the other an informal presentation.

So, to recap, the figure published for the volume of oil produced by blocks 1, 2 and 4 in 2007 by the Khartoum government is 9% smaller than that published by the company operating the blocks, CNPC.

### **Petrodar, 2007**

(blocks 3 and 7 which are subject to revenue sharing)

Information on the volume of oil produced in the Petrodar blocks was obtained from the 2007 annual report of CNPC, the operator of the blocks.<sup>69</sup> This was compared to the figures published by the National Ministry of Finance for blocks 3 and 7.<sup>70</sup> The annual report states that oil production 'reached 10 million metric tons'.<sup>71</sup> The same statement is repeated on the Sudan page of the CNPC website, though without stating to which year this applies.<sup>72</sup> Using the density of Sudanese crude oil given on the US government's Energy Information Administration website, this equates to 74.5 million barrels.<sup>73</sup> Presumably this figure applies to 2007 given that it is in the 2007 annual report.<sup>74</sup> The statement that the 'daily deliverability' of block 3 and 7 increased to 200,000 barrels per day<sup>74</sup> was not compared to government statements of production as this statement appeared to refer to maximum production rather than actual production.

The Ministry of Finance in Khartoum states that production in 2007 from blocks 3 and 7 was 64.0 million barrels.<sup>75</sup> This is 14% less than that stated by the oil company. In other words, as well as there being a significant discrepancy between government and company figures for the Greater Nile Petroleum blocks, there is also a significant discrepancy for the Petrodar blocks. This also raises questions as to which is the correct figure and therefore how much oil money should have been transferred to the Government of Southern Sudan and to the governments of the oil-producing states. For more discussion on the implications of this finding,

### **Petro Energy, 2007**

(block 6, not subject to revenue sharing)

The 2007 CNPC<sup>76</sup> annual report and the CNPC website state that oil production remained at 'more than' 40,000 barrels per day in block 6.<sup>76</sup> The Ministry of Finance in Khartoum states that production per day during 2007 varied from 36,027 barrels per day (in January) to 42,454 barrels per day (in August). On average, throughout the whole of 2007, it was 39,280 barrels per day, not hugely different from the 40,000 barrels per day stated by the oil company, although not actually 'more than' 40,000 barrels per day, as is stated by CNPC. It should be noted that block 6 is the only productive oil block located entirely in the north of the country and therefore not subject to revenue sharing between north and south.

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<sup>18</sup> The slide show presentation included pictures of community support activities such as bridge building that Greater Nile Petroleum Operating Company claimed to have been carried out in Unity state that people at the conference where the presentation was given claimed not to have been carried out in that state [Global Witness interview with people who were present at the conference where the presentation was given].

<sup>19</sup> The oil company's slide show does not make it clear which month their production figures refer to, but it must be before June 2008 as this is the date of the presentation. Government figures show that production by this company was more than 6 million barrels per month from June 2008 right back to the beginning of 2007, and, for all but one of the 2007 months, was more than 7 million barrels per month.

<sup>20</sup> El Harr would have to produce 1,511,000 barrels per month in order for the two sets of figures to match (assuming the company figures relate to May 2008, the month before the date of the presentation; if previous dates are used the figure does not reduce substantially). Of the nine listed fields, production varied per field from 160,000 barrels per month (Diffra) to 970,000 barrels per month (Heglig).

The CNPC website also states that ‘an annual productivity of 2 million tons was achieved in June 2006’ for block 6.<sup>77</sup> Using the density of Sudanese crude oil given on the US government’s Energy Information Administration website, this equates to 14.9 million barrels or 41,000 barrels per day. However, neither the Ministry of Finance in Khartoum nor the Bank of Sudan has released figures on the production of crude oil in block 6 in 2005 and 2006, so this figure could not be compared to government statements.

### **Greater Nile Petroleum Operating Company and Petro Energy, 2005** (blocks 1,2,4 and 6)

As well as the 2007 CNPC annual report containing figures on the volumes of oil produced in Sudanese blocks, the 2005 annual report also contained such figures. This report states that “[In] Our projects in Sudan [...] crude production reached 16.38 million metric tons”.<sup>78</sup> In 2005, CNPC was the operator for the Greater Nile Petroleum Operating Company blocks and the Petro Energy block. The Petrodar blocks had not yet come on-stream.<sup>79</sup>

Using the density of Sudanese crude oil given on the US government’s Energy Information Administration website, this equates to 122 million barrels.<sup>80</sup>

The Khartoum government has published figures for the volume of oil produced in blocks 1, 2 and 4 in 2005, but has not published figures for production in block 6. Figures on the Ministry of Finance website state that production in blocks 1, 2 and 4 in 2005 was 75.8 million barrels.<sup>81</sup> The volume of oil produced in block 6 for the first eight months of 2008 was on average 34,000 barrels per day<sup>82</sup> or 12.6 million barrels per year.

The CNPC website puts production in block 6 between July 2005 and June 2006 at slightly more than this (14.9 million barrels, see calculation above)<sup>83</sup> whereas the US Geological Survey states that production in 2005 was about 10,000 barrels per day or 3.7 million barrels a year.<sup>84</sup> For the purposes of this analysis, the largest of these three estimates of the productivity of block 6 has been used. So, the Khartoum government states that 75.8 million barrels of oil were produced in blocks 1, 2 and 4 in 2005 and the maximum estimate of the volume of oil produced in block 6 is 14.9 million barrels. This put the maximum total production in blocks 1, 2, 4 and 6, according to the Khartoum government and CNPC, at 90.7 million barrels. This is 26% less than the figure stated in the CNPC annual report.

The other main oil companies do not publish useful data on oil production in Sudan. The Indian state-owned company ONGC Videsh states the volume of oil produced in each of the Sudanese blocks for which it owns equity stakes, but it publishes the volume of oil due to ONGC, not the total volume of oil produced by each of the blocks.<sup>85</sup> The Malaysian state-owned company Petronas states the volume of oil produced in all of its overseas operations, but does not even break the figure down into the amount produced in each country.<sup>86</sup> The Greater Nile Petroleum Operating Company, the consortium behind blocks 1, 2 and 4, cites a figure for the volume of oil it produces, but does not say what date the figure refers to.<sup>87</sup>

**The operator of the majority of Sudan’s oil blocks considers there to have been more oil produced in its southern Sudanese oil blocks than the Khartoum government does**

Global Witness wrote to the Ministers of Finance and National Economy and Energy and Mining in Khartoum and to China National Petroleum Corporation to ask how they compile their figures on oil production and how they might explain any discrepancies between company figures and government figures. The State Minister of Finance and State Minister of Energy and Mining, who are appointed by the southern government, and the Ministers of Finance and Energy in the Government of Southern Sudan were copied in to the letters. At the time of going to print, Global Witness had not received any replies to the letters.

So, it appears that the operator of the majority of Sudan’s oil blocks considers there to have been more oil produced in its southern Sudanese oil blocks than the Khartoum government does. This conclusion comes from officially published information: from data compiled by the Ministry of Finance for the IMF, and from annual reports of CNPC, a multi-billion dollar company. When taking the more formal company data, that from the CNPC annual reports, the discrepancies are all in the same direction. The government figures are smaller than the company data to the tune of 9%

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<sup>21</sup> The spreadsheet states that the total was 70.3 million barrels, but the figure for August 2005 appears to be out a factor of 10. The figure stated by above includes a correction for this.

(blocks 1, 2, 4 in 2007), 14% (blocks 3, 7 in 2007) and 26% (blocks, 1, 2, 4 and 6 in 2005). This raises the question as to which figures are the correct ones.

There are several possible answers to this, including:

- The differences are entirely accidental. For example, there could have been clerical errors or calculation errors in one or more of the publications, although this explanation is difficult to believe given that the government and company publications are official, and that the government figures are repeated in lots of publications.
- The Khartoum government may have understated oil production in its publications on the Ministry of Finance's website. One possibility is that the Khartoum government might have known how much oil was produced but declared a smaller volume. The government would have a clear motive for doing this as it would result in less revenue having to be shared with the Government of Southern Sudan. Another possibility is that the Khartoum government might not have known how much oil was produced, if, for example, it relied on figures provided by the oil companies which were incorrect. Global Witness asked the Ministries of Finance and Energy in Khartoum how the oil figures are compiled and checked, but, at the time of going to print, has not received any answer.
- The Chinese oil company may have overstated oil production in its annual reports. An oil company might have the motive to overstate the value of its assets. Global Witness asked CNPC how its oil figures are compiled and checked, but, at the time of going to print, has not received any answer.

It is not possible to know which, if any, of these explanations is correct, and therefore it is not possible from the information here to conclude that the Khartoum government has 'cheated' the southern government out of oil revenues. It is possible to conclude, however, that the discrepancies warrant further investigation.

Which of the oil production figures are correct? They cannot all be. Sudan's oil production figures should be fully analyzed by an independent auditor and the results published for all to see. Such an audit should look at oil production in all blocks, north and south, and should go back to 2005, when revenue sharing commenced. The auditor should have access to the oil companies' books, the government's books and to records from the oil metering stations in the field. If oil production is confirmed to have been larger than that published by the Khartoum government, the oil revenue arrears owed to the Government of Southern Sudan and to the governments of the oil-producing states should be paid. If a discrepancy of, say, 10%<sup>88</sup> was found, this would mean that the Government of Southern Sudan was owed an extra \$162 million from 2007 alone.

### **Analysis Of Oil Export Figures**

The oil export figures published by the national government were also analyzed in order to see if they stand up to scrutiny. This is important in order to begin to know if the oil wealth-sharing agreement is being implemented fairly. The analysis was carried out in two ways: by comparing the volumes of oil that the national government in Sudan declares are exported from Sudan with a) the volumes that the customs organizations of importing countries declare they receive from Sudan, and b) the total volumes of all the tankers that have docked at Port Sudan, the only point of export of oil from the country. Note that for this analysis it was necessary to look at total oil exports from Sudan; in other words exports by both government and companies. This is because the figures against which the government figures were compared – other countries' imports and tanker volumes – relate to total oil exports, not just government oil exports. Most of the information published by the government in Khartoum refers to exports by the government as it is only these exports which are relevant to wealth sharing, but there are some figures available on total exports.

In some cases it was necessary to convert the weight of oil exported into a volume of oil exported in order to compare like with like. To do this, the figure on density of Sudanese oil from the US government's Energy Information Administration was used. See Appendix 1 for further details on how this research was carried out.

The importing countries' customs data roughly match the data published by the national government. Note though that data on the volume of imports from some countries known to import crude oil from Sudan were not available. It is estimated, based on information from the Bank of Sudan from 2006, that these countries represent about an extra four percent of imports. There is a good match between the figures on oil exports declared by the national government and those declared by importing countries.

The tankers' data also roughly match the data published by the national government. The total capacities of all the tankers that docked at the oil terminal of Port Sudan in each year are 12% to 19% larger than the volume of oil exported in that year, according to the national government. However, it cannot be concluded from this that more oil was exported than is declared by the Khartoum government. This is because it is not uncommon for oil tankers to be only partially filled<sup>89</sup> as oil from Sudan is usually sold in volumes of 600,000 or 1,000,000 barrels whereas the oil tankers docking at Port Sudan are often slightly larger than this. In addition, it is possible that some of the oil tankers will have only taken on board a partial cargo as Sudanese crude, particularly the acidic Dar blend, can sometimes be mixed with other crude oil blends.

## **The Production And Exports Figures Need To Be Verified**

The analyses above raise serious questions about the accuracy of the oil figures published by the Khartoum government, upon which the revenue sharing depends. In particular, the oil production figures published by CNPC, the oil company that operates three of Sudan's four productive oil blocks, do not match those published by the Khartoum government for southern oil blocks. This finding points to the need for the oil figures published by the Khartoum government to be verified in order that both sides can trust that the revenue sharing is being carried out fairly.

A full audit of the oil figures should be carried out by an independent audit company. The audit should go back to 2005, when the revenue sharing between north and south commenced, and the findings should be made fully available to all. Such an audit would be more detailed than the analyses carried out here. It could distinguish between oil exported by the companies and oil exported by the government. It could distinguish between oil that came from southern wells and is therefore subject to revenue sharing and oil that came from northern wells. It could examine domestic consumption of oil as well as oil exports.

In addition, the oil volumes should be monitored by an independent verification company that checks the actual volumes of oil being produced by checking the oil metering stations in the field.<sup>22</sup> In order to do this, it would be necessary to monitor oil flows in the production fields, at the places where the pipelines branch to go to refineries, and at the point of export in Port Sudan. There are several companies specialized in such verification. Sudan's donors could pay for this verification; the verification company should train officials from the Government of Southern Sudan in oil monitoring; the results of the audit should be made public; and the monitoring company should be answerable to the Assessment and Evaluation Commission, the internationally chaired body created to monitor implementation of the peace agreement.

The idea of such monitoring has been proposed many times before. Back in May 2006, at the Joint Leadership Conference between the two signatory parties to the peace agreement, there was an agreement to establish Joint Monitoring Teams to verify actual oil production in the oil fields.<sup>90</sup> In the December 2007 agreement that saw the resumption of the national unity government, the ruling National Congress Party granted the southern government a role in the management of upstream oil processes, control rooms and terminals, as well as at the centre and on the marketing board.<sup>91</sup> According to an interview conducted by the International Crisis Group, the presidency agreed to implement these changes, and a recruitment process was underway in March 2008.<sup>92</sup>

More recently, in December 2008, Global Witness again heard that there was agreement to implement parts of the December 2007 agreement,<sup>93</sup> by sending five appointees from the southern government to Heglig (the central processing unit for blocks 1, 2 and 4), three to WNPOC (block 5A)<sup>94</sup> and three to Petrodar (block 3 and 7).<sup>95</sup> No one has yet been posted though.

## **Defining Sudan's Oil-Related Boundaries Is One Of The Biggest Flashpoints In The Peace Agreement**

The Comprehensive Peace Agreement requires two boundaries to be defined that directly impact upon the oil wealth sharing: the north-south boundary, and the boundaries of Abyei, a region in the centre of the country for which there is a different oil revenue-sharing agreement.<sup>96</sup> There are lots of oil fields near these borders and therefore small changes in their positioning can have large effects on the oil revenue distribution. Four years after the signing of the agreement the Abyei borders have only just been agreed and the north-south border has not been agreed.<sup>97</sup> An official security document of the Government of Southern Sudan describes any failure to demarcate the north-south border as the most pressing challenge of the peace agreement.<sup>98</sup>

Both borders, north-south and Abyei, remain possible flashpoints of violence and serve to highlight the mistrust between the two signatory parties to the peace agreement. In May 2008 conflict broke out between the national and southern armies in Abyei; scores of people were killed and more than 50,000 displaced, according to figures from the UN.<sup>99</sup> Both armies have also deployed troops along the north-south border; there is now a massive military build-up there.<sup>100</sup>

The lack of agreement over the boundaries of Abyei has a very real effect on the people of the area. Not only were there no oil revenues from Abyei received by the southern or state governments or the key ethnic groups of the area from 2005 to May 2008, but there has not been an agreement on the Abyei Area Administration's budget, meaning that it has not had any operating funds and has struggled to provide even basic services.<sup>101</sup> This situation is exacerbated by the

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<sup>22</sup> In the case of blocks 1, 2 and 4 which straddle the Abyei and north-south borders, production from each oil field within each block would need to be audited.

expulsion of humanitarian NGOs from the area by the Khartoum government following the issuance of the International Criminal Court arrest warrant for President Bashir. 'I don't know what will be the situation if these organisations leave the area. It means the area will be evacuated of any services,' said Kuol Deng, a Dinka chief from Abyei.<sup>162</sup>

The findings of the Abyei Boundaries Commission, set up by the peace agreement to define what constitutes the area of Abyei, were disputed by the National Congress Party. After the conflict in Abyei in May 2008,<sup>105</sup> interim boundaries were agreed upon by both signatory parties to the peace agreement in the Abyei Roadmap.

This definition would apply until the ruling of the Permanent Court of Arbitration's tribunal. As can be seen from the maps, according to the Abyei Boundaries Commission all of the oil fields located within block 2 and the more southern oil wells of block 4 fall within Abyei. The International Crisis Group also drew conclusions on which oil fields fall within the Abyei Boundary Commission's borders in their 2007 report, 'Breaking the Abyei Deadlock.'

In addition to the findings here, they also found that roughly ten percent of the Toma South oil field falls within this definition of Abyei. Their findings were based on a commercially available map which shows the locations of the oil fields but does not give their precise coordinates. Assuming that the locations of the oil wells used in the maps above are accurate, then the close up of the eastern boundary shows that all of the Toma South oil wells fall outside the boundary. This does not significantly affect the International Crisis Group's findings as to the estimated oil revenues from Abyei as, according to the figures obtained by ICG from an official working in the international petroleum sector, Toma South's contribution to Abyei's oil production was only three to four percent between 2005 and 2009. After the conflict in Abyei in May 2008, an Abyei Roadmap was signed by north and south. The Roadmap included a smaller, interim definition of Abyei which included a far smaller number of oilfields than those recommended by the Abyei Boundaries Commission. Since the Roadmap was signed, the southern government has started to receive remittances for oil from Abyei, though a backlog of remittances from 2005 to May 2008 still exists.

The location of Abyei's boundaries was referred to the Permanent Court of Arbitration. In July 2009 the tribunal announced its ruling. The result, which was accepted by the National Congress Party and Sudan People's Liberation Movement, placed the Diffra and Balome oil wells inside Abyei but Heglig and Bamboo oil wells in Southern Kordofan state, outside Abyei (see map). Oil is currently extracted from the Diffra oil field; it is not clear whether this is also true of the Balome wells. Note that while Heglig and Bamboo are currently considered to be in north Sudan, the north-south border commission has yet to decide where the border lies. Figures on the oil production of each of the oil fields in Abyei obtained by the International Crisis Group suggest that Heglig and Bamboo oilfields together produce six times as many barrels of oil as Diffra oilfield.<sup>106</sup>

The reduction in number of oil fields inside Abyei will affect the revenues received by the southern government, Unity state and the ethnic groups of the Ngok Dinka and Misseriya. The Member of Parliament for Mayom county in Unity state, Stephen Kuina Garjik,<sup>107</sup> stated in a radio interview that fresh violence will erupt if the payments to Unity state are reduced.

### **Verifying The Price Of Oil Sales And Getting The Best Price For Those Sales**

Concerns among southern Sudanese over oil revenue sharing are usually expressed in terms of possible cheating over the volumes of oil exported. However, the Government of Southern Sudan does not get a percentage of the government's share of crude oil; it gets a percentage of the government's revenues from the sale of its share of crude oil. It is the Ministry of Energy and Mining in Khartoum that markets the governments' oil.

As with the oil volumes data, the national Ministry of Finance and Bank of Sudan publish data on their websites on the price of each sale of the two exported Sudanese blends of crude oil, Nile blend and Dar Blend.<sup>23</sup> The figures have been just as delayed as those on oil volumes. Similarly, there are southern Sudanese concerns that the national government may under-declare prices in order to avoid sharing some of the oil revenue with the Government of Southern Sudan.

The price of Dar Blend, the oil produced by Petrodar in blocks 3 and 7, when it first came on-stream in 2007 raised suspicion that the published prices were not the actual prices. The World Bank stated that Dar Blend fetched 'unexpectedly low prices' when it first came on-stream.<sup>108</sup> The first shipment sold at \$14.38 a barrel, at a time when Nile

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<sup>23</sup> Information is usually presented for the price of each individual shipment of the governments' share of crude oil (i.e. not including oil exported by the oil companies). The data included the date of shipment and the blend of oil (Nile or Dar). Fula blend, which comes from the only block which is entirely located in the north and therefore not subject to revenue sharing is not listed. At present, Fula blend is wholly used by the domestic refineries, not exported.

Blend was selling for \$49.16 a barrel,<sup>109</sup> and there were four sales of Dar Blend in February 2007 that went for between 15 and 23 dollars a barrel,<sup>110</sup> despite the fact that Dar Blend in the previous month sold for more than a hundred times this amount.<sup>111</sup> The price of the oil is of concern because it directly affects the money available for revenue sharing under the peace agreement.<sup>114</sup>

A number of explanations have been suggested for these low prices: because there are not many refineries that can deal with acidic blends such as Dar<sup>24</sup> (and quite a few that can be in the US and are therefore excluded from buying the blend because of US sanctions<sup>112</sup>), because there were transport problems at first as a result of the blend's high viscosity,<sup>113</sup> and because of 'political considerations', in other words, that some companies or countries would prefer not to buy oil from Sudan.<sup>114</sup>

China was the purchaser of the cheap Dar Blend.<sup>115</sup> After the initial low price, the Sudanese government apparently sent a delegation to China to negotiate a better price.<sup>116</sup>

### **Analysis Of Oil Prices**

Global Witness has conducted an analysis of the Sudanese oil sales figures with a view to checking their reliability, by comparing the information published by the national government with figures reported in the oil industry press, in RIM Crude Intelligence Daily, on individual sales made by the Sudanese government in 2007 and 2008. Figures for both blends of Sudanese crude that are exported, Nile Blend and Dar Blend, were analyzed.

A number of anomalies were seen between the two sets of data. For the sales of Nile blend, a total of 23 comparisons between government data and press data were possible. Of these, 20 had a higher price in the industry press than the government figures and three had a lower price in the press than the government figures and one had a lower price in the press than the government figures. Overall, the prices reported in the oil industry press, in RIM Crude Intelligence Daily, were, on average, \$1.14 a barrel higher than those reported by the government. This does not sound like much, but given that 57 million barrels were sold during these months, the potential discrepancy is of the order of tens of millions of dollars. There was one sale in August 2008 that the press reported was sold for \$119.05 a barrel whereas the highest price in this month according to the national Ministry of Finance was \$114.08, a discrepancy of nearly \$5. RIM Crude Intelligence Daily did not disclose who bought this oil.

In two cases, RIM Crude Intelligence Daily revealed the average monthly price of all sales of Nile blend sold by the government. For both of these months, April and June 2008, the price reported by the media was higher than the price reported by the government: in April it was 45 cents higher and in June it was 95 cents higher.<sup>25</sup>

### **Oil Transparency And Opacity In Sudan: The Case Of Talisman**

One oil company operating in Sudan has previously published information on the price of oil exports. Talisman, a Canadian oil company that, until it pulled out of the country was part of the GNPOC consortium, published the consortium's calculation on the volume of<sup>117</sup> crude oil lifted, sold to refineries and exported in 2001, before oil revenue sharing between north and south began.<sup>117</sup> According to the prices provided by the Government of Sudan, Talisman calculated that the government's oil exports totaled \$151 million. According to the annual average oil price achieved by the GNPOC consortium, Talisman calculated that the government's oil exports would have totaled \$163 million.<sup>118</sup> In other words, there was an eight percent discrepancy between the oil price stated by the government and the oil price achieved by the oil consortium. One explanation for this could be that the oil consortium was able to obtain a higher price for oil than was the Sudanese government. In 2001, GNPOC was the only consortium extracting oil in Sudan, so one company publishing alone was more significant than it would be now. The figures were published with the permission of the Government of Sudan,<sup>119</sup> but for 2000 only; the following year Talisman stopped publishing such figures.<sup>120</sup>

Less information from the press was available on the pricing of sales of Dar Blend crude oil. Of the information that was available, there was a total of 12 comparisons possible between government data and press data. Whereas for Nile Blend a consistent pattern was observed of small discrepancies between the two data sets, virtually always in the same direction

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<sup>24</sup> Though it should be noted that China National Offshore Oil Company (CNOOC) has recently opened a new refinery in China that can refine highly acidic crudes such as Dar blend [RIM Crude Intelligence Daily, 8 January 2009; Reuters, 13 February 2008].

<sup>25</sup> There is a wide variation in the government records of prices for June 2008: there are two sales of \$120-121 a barrel and four sales of \$130-132 a barrel. The newspaper recorded the average June price to be \$133.07. The analysis here errs on the conservative side and only compares the media price to the higher of the government prices. If all sales were included, the discrepancy between the two sources is \$5.40 per barrel.

of the press reporting a higher price than the government, the Dar Blend analysis revealed a different pattern that is more difficult to explain. Much larger discrepancies were seen, but with less of a pattern: sometimes the press price was higher and sometimes the government price was higher.

Of course, the reasons for all of these discrepancies could simply be because the information in the press articles is wrong, particularly given that this information comes from leaks which are often anonymous. Alternatively, the discrepancies could be due to possible differences in the reporting of the dates of sales between the two sources. The widespread discrepancies, however, highlight the need for an independent audit to be carried out that does not suffer from limitations such as these. Such an audit should be given full access to sales contracts and bank account data which would allow firmer conclusions to be drawn than have been possible here. The results should be made publicly available. The audit should not just compare sale prices of government tenders, but should also look at the sales made by the oil companies operating in Sudan to check against the possibility of transfer pricing. Transfer pricing occurs when the companies buying and selling a commodity are controlled by the same people and fix the sale price for reasons such as tax avoidance. It is a concern in Sudan as two of the three main oil operators, CNPC and ONGC, are state-owned companies whose states, China and India, purchase significant quantities of Sudanese oil.<sup>26</sup>

### **Control Of The Ministry Of Energy**

During negotiations over the Comprehensive Peace Agreement, the National Congress Party reportedly said that they would give southerners full control over either the Energy or Finance ministries.<sup>122P</sup> However, this never happened. The National Congress Party retained control of the Ministry of Energy with the Sudan People's Liberation Movement being allotted the post of vice minister.<sup>122</sup> Since then, the vice minister, Angelina Teny, has complained of being sidelined within the ministry.

### **Closed Tenders**

The lack of transparency over the oil sales prices is not the only problem with the oil sales. It is the national government that is responsible for selling the oil that belongs to all the various governments, national, southern and state. The national government has, at times, sold oil via closed tenders to which only Chinese companies have been allowed to bid. It is the money that is generated from such tenders that is subject to revenue sharing, making it important that the maximum price is obtained. A closed tender is likely to generate a lower price than a tender to which any company can bid and is therefore likely to be only to the benefit of the companies invited to apply. Presumably the national government received something in return for such favorable conditions, although it is not clear what, nor is it clear whether any such benefit was shared with the south.

The known closed tenders, arranged by the state-owned Sudanese Petroleum Corporation, occurred in 2007. On 26 July 2007, a tender was held to which only the companies Sinochem, Unipecc and Chinaoil participated.<sup>123</sup> All these companies are linked to the Chinese government: Sinochem is 100% state-owned,<sup>124</sup> Unipecc 75% state-owned,<sup>125</sup> and Chinaoil is a subsidiary of PetroChina, the publicly listed arm of state-owned CNPC.<sup>126</sup> Chinaoil won the tender and purchased the 1.5 million barrels per month for four months. Another closed tender was held at the end of 2007 to which it was expected that only a few Chinese companies would be invited to apply.<sup>127</sup>

### **The Need For Oil Prices To Be Verified**

The above evidence points to a number of problems with the sale of the governments' share of the crude oil. The oil is marketed by just one of the governments that share in its revenues - the Khartoum government. This makes it impossible for the other governments that share in the revenues, the southern and state governments, to verify that the price stated by the Khartoum government for which the oil was sold is correct. There are discrepancies between the price of the oil as declared by the government and as declared by the trade press, and there have been times when the Khartoum government has sold oil via closed tenders which are not likely to be to the benefit of the southern or state governments.

In the light of these problems, Global Witness recommends that the governments' share of oil should be sold by a sales organization, such as the state-owned oil company, Sudapet, with a joint north-south supervisory board set up to oversee the oil sales. The supervisory board should be staffed by representatives of both the Khartoum and southern governments, should have access to all the sales paperwork and should have the powers to dictate how the sales are organized. This would not only help build trust between north and south with regard to the fairness of the price received for their oil, but would also help to train southern officials in the oil trade. Something similar has been agreed in the past,

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<sup>26</sup> The other main oil operator, Petronas, is also state-owned, but, according to Malay customs statistics, Malaysia does not usually import significant quantities of Sudanese oil [Malaysian customs statistics as reported by UN Comtrade, <http://comtrade.un.org/db/> and Data Trade Services record that Malaysia did not import any Sudanese crude in 2004, 2005 or 2006, and only imported 757,824 barrels in 2007].

but not implemented: in December 2007, the ruling National Congress Party agreed it would grant the southern government a role on the national Ministry of Energy's marketing board,<sup>128</sup> though this has not happened.<sup>129</sup> All of the governments' share of the crude oil should be sold by open tender.

In addition, the oil prices should be verified by an independent auditor. The auditor should have access to the oil sales contracts and to the bank accounts in which the revenues were placed, and the results of the audit should be made publicly available.

### **The North Still Owes The South Millions Of Dollars Of Oil Money**

The national government owes the Government of Southern Sudan millions of dollars in unpaid oil revenues.<sup>130</sup> As of March 2009, the arrears amounted to \$180 million<sup>131</sup> - about the same as the combined budget for education and health in Southern Sudan in 2009.<sup>132</sup> The southern government is making efforts to recover these monies.<sup>133</sup> The southern government has also claimed that the national government has decided to deduct \$6.6 million from the southern government's oil revenues to finance the upcoming national elections.<sup>134</sup>

In June 2009, both the Minister of Energy and Mining and a State Minister of Finance in the Khartoum government claimed that all arrears owed to the southern government had been paid,<sup>135</sup> though no documentation has been seen to back this up as the paperwork presented to the Joint Technical Committee for Oil Revenue Distribution has not yet been published. In addition to this, there are also arrears owed by the national government for oil revenues from Abyei. From 2005 until June 2008, the national government kept all revenues from Abyei. Now that the boundaries of Abyei have been decided, there is no excuse not to pay these arrears. President Bashir has pledged that the southern government will receive all its revenues once the demarcations of boundaries and ownership of oil fields have been finalized.<sup>136</sup>

Since the signing of the Abyei Roadmap on 8 June 2008, the southern government has been receiving oil revenues from Abyei, using the definition of Abyei in the Roadmap. The amounts due to Unity state, Southern Kordofan state, the Misseriya and the Ngok Dinka have been identified in the monthly reports of the Joint Technical Committee, but it is not clear whether the Ngok Dinka<sup>137</sup> or Misseriya have received their revenues. Southern leaders have told Reuters that neither group has received its share;<sup>138</sup> the national Ministry of Finance has reported that it received instructions in February 2009 to transfer the funds,<sup>139</sup> and the reports for the Joint Technical Committee for Oil Revenue Distribution state that money has been transferred, but the UN peacekeeping mission was unable to confirm receipt of the funds.

The states have received at least some of their revenues: the UN reports that Warrab and Southern Kordofan states each received \$10.77 million.

### **Verifying Costs And Fees**

It is not only the oil production and pricing that needs to be verified in order to know how Sudan's oil revenues should be shared out, but also a variety of different costs and fees. This section looks at the costs claimed back by the oil companies, the pipeline and management fees imposed by the national Ministry of Energy and Mining, and other costs deducted by the north from the south's revenues.

### **Oil Companies' Costs**

The oil companies' costs have a direct effect on the money that is available for revenue sharing. This is because the money for revenue sharing is only what is left over once these costs have been taken into account: increase the oil companies' costs and you decrease the amount of oil available for the governments (for details, see box).

### **How Sudanese Oil Contracts Work**

Like many other developing countries, Sudan uses Production Sharing Agreements in which the crude oil itself is divided up between the companies and the government. The companies recover the costs they have incurred in developing the oil field from 'cost oil'. The contract specifies a maximum percentage of the oil that can be claimed by the companies as costs - the 'cost stop'. The companies do not automatically receive this maximum but can claim back specific expenses up to this amount.<sup>27</sup> The remaining oil, after cost oil has been allocated, is referred to as 'profit oil'. Each contract specifies how this profit oil is split between companies and government - in the case of Sudan, as the volume of oil produced per day increases, an increasing percentage of the profit oil goes to the government. It is this government share of profit oil that is subject to revenue sharing.

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<sup>27</sup> In addition, the contract will specify how the crude oil should be valued, in order to determine cost oil. In the case of the GNPOC contract, it specifies "the prevailing market price for Crude Oil, net of transportation tariff" with the market price in dollars per barrel FOB at the export delivery point and the transportation tariff in US dollars per barrel in accordance with the provisions of the crude oil pipeline agreement.

In addition to this profit oil, the government also obtains what is known as 'excess oil'. This is the difference between the cost stop and the actual costs claimed back and it increases as the price of oil increases.<sup>28</sup> At present some in the south suspect that the revenues from excess oil are retained by the Khartoum government. The national government should clarify how these revenues are dealt with, provide figures<sup>140</sup> on the amount of revenue received from excess oil, and, if the money has not previously been shared, pay the arrears.

In order to know how much money the Government of Southern Sudan should receive, it is necessary to know, among other things, the conditions of each contract and the actual amounts of cost oil claimed back by the oil companies. These amounts are huge, often being up to 45% of the total oil revenues.<sup>29</sup> At the moment, it is not possible for the southern government or for Sudanese citizens to verify these costs. The national government does not present any figures on these costs, either on the websites where other oil data are published, or to the Joint Technical Committee for Oil Revenue Distribution.

In addition to not being able to check the oil companies' costs, there is also an issue over what the oil companies spend their money on, that is, the goods and services for which they are compensated via cost oil. In particular, the oil service companies which they employ have been raised as an issue of concern by members of the Government of Southern Sudan.<sup>141</sup>

Some of these oil service companies are Sudanese companies which are widely believed to be linked to the ruling party, the National Congress Party.<sup>142</sup>

Verifying the amounts of cost oil claimed by the oil companies should not be difficult. The oil companies', oil service companies' and Ministry of Energy and Mining's books should be open to an independent auditor. The auditor should check that the receipts match the amount of oil claimed by the companies as cost oil and should pay particular attention to the payments made by the oil companies to Sudanese oil service companies to see if reasonable value for money has been obtained. The findings should be published for all to see. It is in the interests of both the Government of National Unity and the Government of Southern Sudan that this happens: in other countries oil companies have been found to over-claim the amount of cost oil, leaving fewer revenues for the government.

As well as verifying past costs, in future, applications by the oil companies for refunds of their costs should be overseen by a board staffed jointly by north and south, or by representatives appointed by the north and south. Such a board could be the same as the joint board proposed in this report for overseeing the sale of Sudanese oil. A joint board is necessary as the oil companies' costs have such a large bearing on the money left over for revenue sharing; without it southern concerns about being cheated will persist.

In addition to the cost oil being audited, it is also necessary that the oil contracts be made available to all. Without knowledge of what the contracts say on the split of oil between company and government, it is not possible to determine the revenue that the southern and state governments should receive. The IMF recommends that all countries, as a matter of good practice, disclose all details of all signed contracts, especially the key parameters of the contracts (the split between cost oil and profit oil, and the split of profit oil between government and oil company).<sup>143</sup> Sudan's neighbor, Egypt, has published its oil contracts.<sup>144</sup> Some people within the southern government have now - after a long delay - obtained access to these contracts, as specified in the peace agreement.<sup>145</sup> But it is not enough for a small number of select people to see them; civil society and others in the government must have access as well in order that the revenue sharing not only is carried out fairly, but is also seen to be carried out fairly.

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<sup>28</sup> The more expensive oil is, the more money can be generated from the sale of the cost oil and therefore the more money is left over as excess oil once the companies' investment costs have been paid back.

<sup>29</sup> For example, it seems that the maximum cost oil claimable by the GNPOC consortium is 40% in development blocks and 45% in development units [GNPOC contract, 1997 seen by Global Witness]; by the Petro SA consortium 45% [African Energy 14/11/08]; and by what was the Cliveden and Hi-Tech consortium 45% [Cliveden contract, 2003 seen by Global Witness]

<p><b>Pipeline fees</b></p>	<p>As well as there being problems verifying the oil companies' costs, the southern government has also complained about the management and pipeline fee costs deducted by the national Ministry of Energy and Mining from the revenues owed to the southern government. The management fees are deducted before revenue sharing, and used to be set at five percent of the governments' entitlement, but were reduced to three percent in March 2007.<sup>146</sup> The three percent fee amounts to millions of dollars per month – \$25.7 million in August 2008<sup>147</sup> – and was particularly high in 2008 when oil prices were at their peak. The Government of Southern Sudan has repeatedly raised this issue: at the National Petroleum Commission,<sup>148</sup> at the Wealth Sharing Sub-Committee of the AEC,<sup>149</sup> and in discussion with the national Minister for Energy,<sup>150</sup> but no resolution has yet been found. It is not clear where the figure of three percent came from, especially given that the fee will vary as oil prices vary, yet the service provided remains the same. The national government has argued that it is not able to provide a breakdown of how the fee is derived because of legal constraints.<sup>151</sup> In some ways the south can already be said to be paying for the management services of the national government in that the north receives half of the revenues from southern oil wells, and deducts money from the south for services that it provides in the south.</p>
<p>The pipeline fees amounted to more than \$40 million in August 2008 and more than \$44 million in September 2008.<sup>153</sup> Who does this money go to: the Khartoum government, the companies that own the pipelines or a combination of both? At present, it is not possible to tell as the Crude Oil Pipeline Agreements that dictate the sharing of revenue between government and the companies that built the pipelines are kept secret. A report by an energy consultancy company indicates that the ownership of the Greater Nile Oil Pipeline</p>	

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<sup>1</sup> Global Witness interview with a diplomat, August 2008

<sup>2</sup> Global Witness interview with a diplomat, December 2008

<sup>3</sup> Global Witness interview with a diplomat, December 2008

<sup>4</sup> Quoted in the China National Petroleum Corporation annual report 2007, page 47, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>

<sup>5</sup> United Nations Commodity Trade Statistics Database, <http://comtrade.un.org/db/>. China reports that it imported \$129.0 billion of crude oil in 2008, of which \$6.3 billion, or 4.9%, came from Sudan

<sup>6</sup> Japan purchased 29% of all Sudanese crude oil exports in 2007, the latest year for which figures are available. Sudan exported 137.8 to 139.6 million barrels of oil in 2007 [Ministry of Finance and National Economy and Bank of Sudan data, see references elsewhere in report]. Japan imported 41.0 million barrels of oil from Sudan in 2007 [Data Trade Services, quoting figures from Japanese customs; figures converted from weight into volume assuming a density of 7.452 barrels/tonne]

<sup>7</sup> Global Witness interview with a senior member of the Sudan People's Liberation Army, December 2008

<sup>8</sup> Stewart Williams, Wood Mackenzie, Oil in Sudan and Potential Revenues to GOSS. Available from [http://www.ecosonline.org/back/pdf\\_reports/2007/Mackenzie Williams.ppt#256,1](http://www.ecosonline.org/back/pdf_reports/2007/Mackenzie%20Williams.ppt#256,1), Oil in Sudan and Potential Revenues to GOSS Stewart Williams Wood Mackenzie

<sup>9</sup> See the map produced by the European Coalition on Oil in Sudan for full details of which block belongs to which companies: [http://www.ecosonline.org/back/pdf\\_reports/Maps/Soedan%20A5%20kleur.pdf](http://www.ecosonline.org/back/pdf_reports/Maps/Soedan%20A5%20kleur.pdf)

<sup>10</sup> Monthly reports of the Joint Technical Committee for Oil Revenue Distribution

<sup>11</sup> European Coalition on Oil in Sudan, Fact Sheet II: The Economy of Sudan's Oil Industry, October 2007, <http://www.ecosonline.org/index.cfm?event=showreports&page=reports>

<sup>12</sup> Economist Intelligence Unit, Country Report Sudan, August 2008

<sup>13</sup> Monthly reports of the Joint Technical Committee for Oil Revenue Distribution

<sup>14</sup> European Coalition on Oil in Sudan, Sudan's Oil Industry: Facts and Analysis, April 2008, <http://www.ecosonline.org/index.cfm?event=showreports&page=reports>

<sup>15</sup> Lundin Petroleum AB, Report for the three months ended 31 March 2009, [http://www.lundinpetroleum.com/Documents/qr\\_1\\_2009\\_e.pdf](http://www.lundinpetroleum.com/Documents/qr_1_2009_e.pdf)

<sup>16</sup> See the Sudan Millennium Development Goals website, [http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm), for the Southern Sudan figure (for 2006) and the UNDP Human Development Report 2007/2008, [http://hdr.undp.org/en/media/HDR\\_20072008\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf), for other countries' figures. 90% of people in Southern Sudan are estimated to live on less than a dollar a day. The next-worst recorded figure is for Nigeria, at 70.8% of people. Living on a dollar a day or less is even tougher than it first seems: it is not what a dollar would buy in Southern Sudan, but the purchasing power equivalent; in other words, equivalent to what it would buy in the United States.

<sup>17</sup> Reuters, Maternal mortality highest in South Sudan, 6 June 2007, <http://www.reuters.com/article/healthNews/idUSL0666311520070606>. The article quotes the head of the UN Population Fund in Southern Sudan, Dragudi Buwa, as saying that maternal mortality "Rates are actually at 2,030 per 100,000 births, the worst in the world". Figures on maternal mortality in Southern Sudan in 2006 are reported in UN Population Fund Humanitarian Response Newsletter, May 2007, [http://www.unfpa.org/emergencies/newsletter/frontlines\\_2007\\_05.pdf](http://www.unfpa.org/emergencies/newsletter/frontlines_2007_05.pdf). Note that the Millennium Development Goals website places Southern Sudan equal worst with Sierra Leone, with a slightly different estimate of 2,054 deaths per 100,000 births. Both estimates amount to more than 2% of mothers dying as a result of child birth

<sup>18</sup> See the Southern Sudan Millennium Development Goals website, [http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm), for the Southern Sudan figure (12.6% in 2006) and the CIA World Fact Book for other countries' figures for 2008 (some countries lack data), <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2091rank.html>. The Southern Sudan child mortality figures, comparing 2006 figures with 2008 world figures, are the fifth-worst in the world, after Angola, Sierra Leone, Afghanistan and Liberia

<sup>19</sup> Government of Southern Sudan, Ministry of Education, Science and Technology quoting research conducted by the New Sudan Centre for Statistics in Association with UNICEF which found that children in Southern Sudan have the least access to primary education in the world, <http://www.moest.gov.sd/start/index.php>. The Millennium Development Goals website reports that, in 2004 (before the signing of the CPA), 20% of children enrolled in a primary school in Southern Sudan and 2% of children completed primary school [[http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm)]. In sub-Saharan Africa as a whole, 71% of children enrolled in primary school in 2006 [<http://www.un.org/millenniumgoals/pdf/The%20Millennium%20Development%20Goals%20Report%2008.pdf>]

<sup>20</sup> In 2006, the same year as the figure for Southern Sudan, 10.5% of children in north Sudan died before their fifth birthday. In Southern Sudan it was 12% [[http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm)]. Note that more recently, in 2008, the CIA World Factbook reports a child mortality rate of 8.7% across the whole of Sudan. This is still the 15th-worst reported in the world [<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2091rank.html>]

<sup>21</sup> Sudan Millennium Development Goals website, [http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm) which quotes an Interim Unified Report of the Sudan Millennium Development Goals 2004 as saying that 21% of children in north Sudan complete primary school

<sup>22</sup> See the Sudan Millennium Development Goals website, [http://www.sd.undp.org/mdg\\_fact.htm](http://www.sd.undp.org/mdg_fact.htm), for the north Sudan figure (for 2006) and the UNDP Human Development Report 2007/2008, <http://hdrstats.undp.org/indicators/23.html>, for other countries' figures. 50% of people in north Sudan are estimated to live on less than a dollar a day. The next-worst recorded figure is for Nigeria, at 70.8% of people

<sup>23</sup> Ministry of Finance and National Economy. Oil transfers to the Government of Southern Sudan totaled \$814m in 2005, \$1,126m in 2006 (Bank of Sudan), \$1,457m in 2007, \$2,888m in 2008 and \$127m in the first three months of 2009 (Ministry of Finance and National Economy)

<sup>24</sup> Government of Southern Sudan 2009 budget speech, presented to the Southern Sudan Legislative assembly by Kuol Athian Mawien, who was at the time Minister of Finance and Economic Planning, 10 December 2008

<sup>25</sup> United Nations Mission in Sudan, In Sudan, March 2009, <http://www.unmis.org/English/2009Docs/inSUDAN-mar09-en-online.pdf>

<sup>26</sup> UK Department for International Development, <http://www.dfid.gov.uk/Where-we-work/Middle-East--North-Africa/Sudan/>

<sup>27</sup> United Nations Security Council, Report of the Secretary-General on the Sudan, 17 April 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/N09/299/93/PDF/N0929993.pdf?OpenElement>. The report states that, according to a Government of Southern Sudan Ministry of Finance and Economic Planning, Sudan's total oil revenue in 2008 was \$6,566.04 million

<sup>28</sup> US Committee for Refugees, <http://web.archive.org/web/20041210024759/http://www.refugees.org/news/crisis/sudan.htm>

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- <sup>56</sup> Global Witness interview with Total staff, December 2008
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<sup>66</sup> China National Petroleum Corporation, Annual report 2007, page 49, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>

<sup>67</sup> Greater Nile Petroleum Operating Company Ltd, GNPOC Overview Presentation, June 2008. This slide show presentation was obtained from two sources, each of which had a couple of slides missing. The complete presentation was put together from the two sources. Global Witness thanks the European Coalition on Oil in Sudan for providing one of the presentations

<sup>68</sup> Ministry of Finance and National Economy, [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), files 'Template for production of Sudan oil sector data 2007' and 'Government of Southern Sudan share from oil revenue October 2008'. Both files were prepared for the IMF and show total production per month of Nile blend crude, which comes from block 1, 2 and 4, the GNPOC blocks. Note that these data do not also include production from block 5A (which also contributes to Nile blend) as this is listed separately. In other words, the data are just for blocks 1, 2 and 4. The figures presented are for total oil production, not just for the governments' entitlement to oil production in these blocks

<sup>69</sup> China National Petroleum Corporation, Annual report 2007, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>

<sup>70</sup> Ministry of Finance and National Economy, [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), file 'Template for production of Sudan oil sector data 2007'. This file was prepared for the IMF and shows production of Dar blend crude per month, which comes from block 3 and 7, the Petrodar blocks in 2007. The figures presented are for total oil production, not just for the governments' entitlement to oil production in these blocks

<sup>71</sup> China National Petroleum Corporation, Annual report 2007, page 45, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>

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<sup>73</sup> US Department of Energy, Energy Information Administration, <http://www.eia.doe.gov/emeu/ipsr/te2.xls>

<sup>74</sup> China National Petroleum Corporation, Annual report 2007, page 49, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>

<sup>75</sup> Ministry of Finance and National Economy, [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), file 'Template for production of Sudan oil sector data 2007'. This file was prepared for the IMF and shows production of Dar blend crude per month, which comes from block 3 and 7, the Petrodar blocks in 2007. The figures presented are for total oil production, not just for the governments' entitlement to oil production in these blocks

<sup>76</sup> China National Petroleum Corporation, Annual report 2007, page 49, <http://www.cnpc.com.cn/Resource/eng/img/07AnnualReport/2007PDF.pdf>; and China National Petroleum Corporation website, <http://www.cnpc.com.cn/eng/cnpcworldwide/africa/Sudan/>. The figures in the annual report and on the website are the same, but it is not clear which year the website figure applies to

<sup>77</sup> China National Petroleum Corporation website, <http://www.cnpc.com.cn/eng/cnpcworldwide/africa/Sudan/>

<sup>78</sup> China National Petroleum Corporation, Annual report 2005, page 47, <http://www.cnpc.com.cn/Resource/eng/img/AnnualReport/2005%20Annual%20Report.pdf>

<sup>79</sup> Petrodar website, <http://www.petrodar.com/>, which states that the first shipment of Dar blend through Bashayer terminal took place in August 2006. European Coalition on Oil in Sudan, Sudan's Oil Industry: Facts and Analysis, April 2008; and Reuters, Sudan doubles crude exports to China in 2007, 22 January 2008, back up this statement

<sup>80</sup> US Department of Energy, Energy Information Administration, <http://www.eia.doe.gov/emeu/ipsr/te2.xls>

<sup>81</sup> Ministry of Finance and National Economy, [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), file 'Template 2005'

- <sup>82</sup> Ministry of Finance and National Economy, [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), file 'IMF report Jan up to Septemper [sic] 2008'. The report states that 8,257,884 barrels of oil were produced by block 6 between January and August 2008
- <sup>83</sup> China National Petroleum Corporation website, <http://www.cnpc.com.cn/eng/cnpcworldwide/africa/Sudan/>
- <sup>84</sup> US Geological Survey, 2005 Minerals Yearbook, Sudan, August 2007, <http://minerals.usgs.gov/minerals/pubs/country/2005/sumyb05.pdf> states that production in block 6 in 2005 was "at a rate of about 10,000 bbl/d".
- <sup>85</sup> See, for example, ONGC Videsh, Annual report 2007- 2008, part I, pages 10 and 12, [http://www.ongcvidesh.com/Reports/OVL\\_Annual\\_Report\\_2007-08-Part\\_I.pdf](http://www.ongcvidesh.com/Reports/OVL_Annual_Report_2007-08-Part_I.pdf)
- <sup>86</sup> See, for example, Petroliaam Nasional Berhad, Summary of consolidated financial results for year ended March 31 2008, [http://www.petronas.com/internet/corp/centralrep2.nsf/f0d5fd0d9c25fbdd48256ae90025ee04/2b3caac313db597148256be60015256c/\\$FILE/Financial\\_Results\\_USD\\_FY2008.pdf](http://www.petronas.com/internet/corp/centralrep2.nsf/f0d5fd0d9c25fbdd48256ae90025ee04/2b3caac313db597148256be60015256c/$FILE/Financial_Results_USD_FY2008.pdf)
- <sup>87</sup> Greater Nile Petroleum Operating Company website, <http://www.gnpoc.com/oilField.asp?glink=GL002&plink=PL012>
- <sup>88</sup> The Khartoum government transferred \$1,457 million to the Government of Southern Sudan in 2007 [Monthly reports of the Joint Technical Committee on Oil Revenue Distribution]. If this was only 90% of its dues, it would be owed an extra \$162 million
- <sup>89</sup> Global Witness correspondence with Lloyd's Register, May 2009
- <sup>90</sup> United Nations Mission in Sudan, The CPA Monitor, <http://www.unmis.org/english/cpaMonitor.htm>
- <sup>91</sup> International Crisis Group, Sudan's Comprehensive Peace Agreement: Beyond the Crisis, 13 March 2008, quoting an interview carried out in Khartoum 20 February 2008
- <sup>92</sup> International Crisis Group, Sudan's Comprehensive Peace Agreement: Beyond the Crisis, 13 March 2008
- <sup>93</sup> Global Witness interviews with member of the Government of Southern Sudan and a civil servant, December 2008
- <sup>94</sup> Global Witness interview with member of the Government of Southern Sudan, December 2008
- <sup>95</sup> Global Witness interview with member of the Government of Southern Sudan, December 2008
- <sup>96</sup> Whereas government revenue from oil in the south is split half and half between Khartoum and Juba (after taking into account the 2% to the oil-producing states and revenue to the ORSA), government revenue from oil from Abyei was agreed to be split 50% to the national government, 42% to the southern government, 2% to each of the oil-producing areas (Western Kordofan in the north and Bahr el Ghazal region in the south) and 2% to each of the ethnic groups in the area, the Misseriya and the Ngok Dinka. Note that Western Kordofan no longer exists; it has been subsumed into Northern Kordofan and Southern Kordofan, which was created by the CPA. The oil-producing areas are now within Southern Kordofan. The oil-producing state within Bahr el Ghazal region is Unity State
- <sup>97</sup> The north-south border was supposed to be agreed upon by July 2005 and demarcated with concrete pillars by April 2009. The final report of the Ad Hoc North/South Border Technical Committee was due in November 2008 but remains outstanding [United Nations Security Council, Report of the Secretary-General on the Sudan, 17 April 2009]. (Note that the Chatham House report said that the report was submitted but that its recommendations are likely to be disputed, Chatham House, Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement, 9 January 2009.) Either way, the point is that the Ad Hoc Committee is, in the words of the head of the Assessment and Evaluation Commission "stuck" [Sudan Tribune, 29 April 2009].
- <sup>98</sup> Sudan Tribune, South Sudan cabinet passes Security Strategy document, 20 February 2009, <http://www.sudantribune.com/spip.php?article30238>
- <sup>99</sup> United Nations Mission in Sudan, In Sudan, July 2008, <http://www.unmis.org/English/2008Docs/inSUDAN-08-july-en.pdf>
- <sup>100</sup> Chatham House, Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement, 9 January 2009
- <sup>101</sup> United Nations Security Council, Report of the Secretary-General on the Sudan, 17 April 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/N09/299/93/PDF/N0929993.pdf?OpenElement>
- <sup>102</sup> United Nations Integrated Regional Information Networks, Fallout scenarios, 20 March 2009, <http://www.irinnews.org/Report.aspx?ReportId=83556>
- <sup>103</sup> The ABC report concludes that: • The northern boundary is a straight line at approximately latitude 10 22'30"N, on the basis that it divides the shared area between 10 10'N and 10 35'N in half. The Commission stated that the Ngok Dinka and Misseriya should retain their grazing rights in this shared area. This does not, however, affect the sharing of oil revenues and so is not marked on the map • The western boundary shall be the Kordofan-Darfur boundary as it was defined on 1 January 1956 • The southern boundary shall be the Kordofan-Bahr el Ghazal-Upper Nile boundary as it was defined on 1 January 1956 • The eastern boundary shall extend the line of the Kordofan-Upper Nile boundary at approximately longitude 29 32'15"E northwards until it meets latitude 10 22'30"N. The state boundaries on the map are taken from a 2006 map of the UN Office for the Coordination of Humanitarian Affairs, [http://www.unsudanig.org/library/mapcatalogue/sudan/data/planning/Map772SudanPlanningMap\\_A0\\_21Nov06.pdf](http://www.unsudanig.org/library/mapcatalogue/sudan/data/planning/Map772SudanPlanningMap_A0_21Nov06.pdf)
- <sup>104</sup> Coordinates for the boundaries of Abyei within the Roadmap follow the state boundaries along the southern edge until 29 15' E and 9 45' N. The north-east corner is at 29 15' E and 10 09' N. The northern edge has points at a) 29 00' E and 10 11' N, b) 28 45' E and 10 09' N, c) 28 30' E and 10 11' N, and d) 28 15' E and 10 09' N. The north-west corner is at 28 00' E and 10 11' N. The state boundaries on the map are taken from a 2006 map of the UN Office for the Coordination of Humanitarian Affairs, [http://www.unsudanig.org/library/mapcatalogue/sudan/data/planning/Map 772 Sudan Planning Map\\_A0\\_21 Nov 06.pdf](http://www.unsudanig.org/library/mapcatalogue/sudan/data/planning/Map 772 Sudan Planning Map_A0_21 Nov 06.pdf)
- <sup>105</sup> The Road Map for Return of IDPs and Implementation of Abvei Protocol, Khartoum, 8 June 2008
- <sup>106</sup> International Crisis Group, Sudan: Breaking the Abyei Deadlock, 12 October 2007

- <sup>107</sup> BBC Monitoring quoting Nairobi-based Sudan Radio Service interview with Stephen Kuina Garjik, 27 July 2009
- <sup>108</sup> World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007
- <sup>109</sup> Ministry of Finance and National Economy, Sudan Petroleum Unit, available from [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1#](http://www.mof.gov.sd/topics_show_E.php?topic_id=1#), form "Petroleum2007 pound"
- <sup>110</sup> Ministry of Finance and National Economy, was available from [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1#](http://www.mof.gov.sd/topics_show_E.php?topic_id=1#), form "Template 2007". This document was no longer available on this website at the time of going to print. The document states that four exports of Dar blend were made in February 2007: • 137,402 barrels for 16 cents a barrel • 764,929 barrels for 15 cents a barrel • 151,982 barrels for 23 cents a barrel • 797,470 barrels for 23 cents a barrel
- <sup>111</sup> Ministry of Finance and National Economy, was available from [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1#](http://www.mof.gov.sd/topics_show_E.php?topic_id=1#), form "Template 2007". This document was no longer available on this website at the time of going to print. The document states that one export of Dar blend was made in January 2007 of 1,093,520 barrels for \$37.31 a barrel
- <sup>112</sup> Global Witness interview with oil analyst, July 2008; World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007; European Coalition on Oil in Sudan, Fact Sheet II: The Economy of Sudan's Oil Industry, October 2007
- <sup>113</sup> Global Witness interview with journalist, June 2008
- <sup>114</sup> Global Witness interview with oil analyst, July 2008
- <sup>115</sup> Global Witness interview with oil analyst, July 2008. In addition, the European Coalition on Oil in Sudan report 'Fact Sheet II: The Economy of Sudan's Oil Industry', October 2007, notes that China was the sole purchaser of Dar blend for the first two months of production
- <sup>116</sup> Global Witness interview with oil analyst, July 2008
- <sup>117</sup> Talisman Energy, Corporate Social Responsibility, 2001. The report was available on <http://www.talismanenergy.com/responsibility/?disclaimer=1> but no longer appears to be 70 REFERENCES GLOBAL WITNESS | FUELLING MISTRUST
- 71
- <sup>118</sup> Talisman Energy, Corporate Social Responsibility, 2001. The report was available on <http://www.talismanenergy.com/responsibility/?disclaimer=1> but no longer appears to be. The oil consortium used the weighted average FOB price for their calculations, which covered the same time period as the government's figures
- <sup>119</sup> Coalition for International Justice, Soil and Oil: Dirty Business in Sudan, February 2006. Available from [http://www.ecosonline.org/back/pdf\\_reports/2006/reports/Soil\\_and\\_Oil\\_Dirty\\_Business\\_in\\_Sudan.pdf](http://www.ecosonline.org/back/pdf_reports/2006/reports/Soil_and_Oil_Dirty_Business_in_Sudan.pdf)
- <sup>120</sup> Talisman Energy, 2002 Corporate Responsibility Report. The report was available on <http://www.talismanenergy.com/responsibility/?disclaimer=1> but no longer appears to be
- <sup>121</sup> Woodrow Wilson International Center for Scholars, Implementing Sudan's Comprehensive Peace Agreement: Prospects and Challenges, May 2008; and International Crisis Group, Sudan's Comprehensive Peace Agreement: The Long Road Ahead, 31 March 2006 122 Global Witness interviews with NGO workers, 2008 123 Rim Crude Intelligence Daily, Market commentary: African / European / Russian / Americans crude, 23 July 2007
- <sup>124</sup> Sinochem website, <http://www.sinochem.com/tabid/615/Default.aspx>. Sinochem is 100% Chinese state-owned
- <sup>125</sup> Sinopec website, [http://english.sinopec.com/about\\_sinopec/subsidiaries/subsidiaries\\_joint\\_ventures/20080326/3083.shtml](http://english.sinopec.com/about_sinopec/subsidiaries/subsidiaries_joint_ventures/20080326/3083.shtml). Unipecc is wholly owned by Sinopec which is 75% Chinese state-owned
- <sup>126</sup> Chinaoil website, [http://www.chinaoil.com.cn/zly\\_en/zgs/about.asp](http://www.chinaoil.com.cn/zly_en/zgs/about.asp)
- <sup>127</sup> Rim Crude Intelligence Daily, Market commentary: African / European / Russian / Americans crude, 2 November 2007
- <sup>128</sup> International Crisis Group, Sudan's Comprehensive Peace Agreement: Beyond the Crisis, 13 March 2008, quoting an interview carried out in Khartoum 20 February 2008
- <sup>129</sup> Global Witness interviews with a member of the Government of Southern Sudan and a civil servant, December 2008
- <sup>130</sup> In addition, the Government of Southern Sudan also owes money to the national government from the sharing of non-oil revenue (customs duties, airport taxes etc) that are specified in the peace agreement. The arrears are likely to be considerably less than the oil-related arrears. In April 2008, it was announced by the Chair of the FFAMC that the national and southern governments had established a Joint Non-Oil Revenue Sharing Committee, equivalent to the committee that already exists for oil revenues. [Assessment and Evaluation Commission, Mid Term Evaluation Report, July 2008]
- <sup>131</sup> March 2009 report for the Technical Committee on Wealth Sharing which quotes an exact figure of \$179,870,000.
- <sup>132</sup> Government of Southern Sudan, Ministry of Finance and Economic Planning, Draft budget 2009. \$180 million is equivalent to 421 million Sudanese pounds. The 2009 budget for education is 270 million Sudanese pounds; health is 175 million Sudanese pounds.
- <sup>133</sup> Sudan Tribune, South Sudan takes measures in a bid to avert financial crisis, 8 April 2009, quoting government spokesperson Gabriel Changson Chang who attended an extraordinary cabinet meeting on 7 April 2009 where a report of the Ministerial Committee formed to manage the financial crisis in Southern Sudan was discussed and it was resolved to engage the national government at the highest levels to recover the arrears. <http://www.sudantribune.com/spip.php?article30802>
- <sup>134</sup> Sudan Tribune, South Sudan in "serious" financial crisis, govt takes measures, 28 March 2009 quoting Aggrey Sabuni Tisa, Undersecretary for Planning in the Government of Southern Sudan at a joint cabinet meeting. Tisa quoted the figure in Sudanese pounds – as 15 million Sudanese pounds per month. <http://www.sudantribune.com/spip.php?article30665>; and Sudan Tribune, South

Sudan takes measures in a bid to avert financial crisis, 8 April 2009, quoting GOSS spokesperson, Gabriel Chagson Chang, <http://www.sudantribune.com/spip.php?article30802>

<sup>135</sup> Sudan Vision, Sudanese Finance Ministry says oil revenues “transferred” to southern region, 2 June 2009. See <http://news.tradingcharts.com/futures/2/0/125249702.html>

<sup>136</sup> BBC News (Middle East Monitor), Al-Bashir pledges to give south Sudan all its oil share, 31 August 2008

<sup>137</sup> Reuters, Sudan flashpoint oil town starved of funding – officials, 31 January 2009. The article quotes Luka Biong, Minister for Presidential Affairs in the southern government. <http://uk.reuters.com/article/oilRpt/idUKLV32036520090131>

<sup>138</sup> United Nations Security Council, Report of the Secretary-General on the Sudan, 17 April 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/N09/299/93/PDF/N0929993.pdf?OpenElement>

<sup>139</sup> United Nations Security Council, Report of the Secretary-General on the Sudan, 17 April 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/N09/299/93/PDF/N0929993.pdf?OpenElement>

<sup>140</sup> Global Witness interview with civil servant, December 2008

<sup>141</sup> Global Witness interviews with members of the Government of Southern Sudan, December 2008

<sup>142</sup> Global Witness interviews with journalists and members of civil society and the international community, August and December 2008. The issue is also mentioned, without mentioning company names, in the International Herald Tribune, To halt Sudan’s atrocities, follow the money, 22 August 2006

<sup>143</sup> International Monetary Fund, Guide on Resource Revenue Transparency, June 2005, pages 19, 22 and 23, <http://www.imf.org/external/pubs/ft/grrt/eng/060705.pdf>

<sup>144</sup> International Monetary Fund, Guide on Resource Revenue Transparency, June 2005, page 19, <http://www.imf.org/external/pubs/ft/grrt/eng/060705.pdf>

<sup>145</sup> Global Witness interview with member of the Government of Southern Sudan, December 2008. The CPA gives representatives of the SPLM the right to access the contracts, and says that the representatives shall have the right to engage technical experts and that all those who have access to the contracts will sign confidentiality agreements

<sup>146</sup> Global Witness interviews with member of the Government of Southern Sudan and a civil servant, December 2008

<sup>147</sup> Monthly reports of the Joint Technical Committee for Oil Revenue Distribution

<sup>148</sup> Global Witness interview with member of the Government of Southern Sudan, December 2008.

<sup>149</sup> Global Witness interview with a diplomat, August 2008. The issue was raised at the August 2008 meeting.

<sup>150</sup> Global Witness interview with member of the Government of Southern Sudan, December 2008

<sup>151</sup> Global Witness, personal communication with a Sudanese oil expert, June 2009

<sup>152</sup> European Coalition on Oil in Sudan, Greater Nile Petroleum Operating Company (GNPOC), [http://www.ecosonline.org/index.cfm?event=showcompaniesdetail&page=companiesdetail&company\\_id=18](http://www.ecosonline.org/index.cfm?event=showcompaniesdetail&page=companiesdetail&company_id=18)

<sup>153</sup> Monthly reports of the Joint Technical Committee for Oil Revenue Distribution

<sup>154</sup> Monthly reports of the Joint Technical Committee for Oil Revenue Distribution

<sup>155</sup> PFC Strategic Studies, Sudan: Projected Oil Production and Revenues, Summary, August 2002, page 23, by Michael Rodgers. Available from [http://www.csis.org/media/isis/pubs/0208\\_SudanPFCSum.pdf](http://www.csis.org/media/isis/pubs/0208_SudanPFCSum.pdf)

<sup>156</sup> PFC Strategic Studies, Sudan: Projected Oil Production and Revenues, Summary, August 2002, page 27, by Michael Rodgers. Available from [http://www.csis.org/media/isis/pubs/0208\\_SudanPFCSum.pdf](http://www.csis.org/media/isis/pubs/0208_SudanPFCSum.pdf)

<sup>157</sup> International Crisis Group, Sudan: Breaking the Abyei Deadlock, 12 October 2007

<sup>158</sup> Republic of Sudan, Ministry of Finance and National Economy Petroleum Unit. GOSS Share From Crude Oil Revenues, September 2008, published October 2008

<sup>159</sup> Republic of Sudan, Ministry of Finance and National Economy Petroleum Unit. GOSS Share From Crude Oil Revenues, March 2009

<sup>160</sup> Global Witness interviews with NGO workers and Sudan analysts, 2008

<sup>161</sup> Global Witness interviews with diplomats, August and December 2008

<sup>162</sup> Global Witness interview with member of the National Petroleum Commission, December 2008

<sup>163</sup> Resolutions 9 and 11 of the National Petroleum Commission, 17 June 2007, reproduced in the report. It appears that Sudapet’s stake has been reduced from 20% to 10% in order to make way for the Government of Southern Sudan in block B. Lundin’s 2007 annual report states that all of the equity partners in block 5B agreed to reduced their holding, on a pro rata basis, to make way for Nilepet’s 10% stake [page 17, [http://www.lundinpetroleum.com/Documents/ar\\_2007\\_e.pdf](http://www.lundinpetroleum.com/Documents/ar_2007_e.pdf)]. However the 2008 annual report still reports that Lundin’s equity stake in the block is 24.5%, as it was before, making it unclear whether or not the 10% stake has been passed to Nilepet

<sup>164</sup> Sudan Tribune, South Sudan establishes Nile Petroleum Corporation Board, 14 November 2008, <http://www.sudantribune.com/spip.php?article29256>. People appointed to the board were: the Minister of Energy and Mining, John Luk Jok (chair); the Minister of Finance and Economic Planning, Kuol Athian Mawien; the Minister of Commerce and Industry, Anthony Lino Makana; the Minister of Labour, Public Service and Human Resource Development, Awut Deng Acuil; the Governor of the Bank of Southern Sudan, Elijah Malok Aluong; the Chair of the Southern Sudan Reconstruction and Development Fund, Dr David Nailo Mayo; the Secretary General of the Southern Sudan Investment Authority, Emmanuel Bol; Kuong Daniel Gatluak, of the Office of GoSS President; and Bol Wek

Agoth, of the Office of GoSS President. The decree also states that each of the Oil Producing States in Southern Sudan shall have one representative in the board.

<sup>165</sup> Norwegian Agency for Development Cooperation (NORAD), Oil for Development annual report 2007-2008

<sup>166</sup> World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007

<sup>167</sup> International Monetary Fund, Sudan: 2007 Article IV Consultation and Staff-Monitored Program, October 2007, <http://www.imf.org/external/pubs/cat/longres.cfm?sk=21397.0>; and Sudan: First Review of Performance Under the 2007-08 Staff-Monitored Program, June 2008, <http://www.imf.org/external/pubs/cat/longres.cfm?sk=22011.0>

<sup>168</sup> National Audit Office, Report of the Auditor General, The accounts of the States for the Financial Year 2003

<sup>169</sup> Sudan Tribune, South Sudan passes no confidence vote against Auditor General, 12 December 2007. <http://www.sudantribune.com/spip.php?article25180>

<sup>170</sup> United Nations Mission in Sudan, The CPA Monitor, <http://www.unmis.org/english/cpaMonitor.htm>. The Auditor General was removed from post in February 2008 by the President of the southern government following a vote of no confidence by the Legislative Assembly in December 2007. The Secretary General of the southern government is acting in a caretaker role, but does not audit government accounts nor report on his findings

<sup>171</sup> Global Witness telephone conversation with PKF, 9 December 2008; Economist Intelligence Unit, County report: Sudan, August 2008; and Government of Southern Sudan Ministry of Finance and Economic Planning, Draft Budget 2009, page 34

<sup>172</sup> Government of Southern Sudan, Ministry of Finance and Economic Planning, Draft budget 2009, page 34

<sup>173</sup> Monthly reports of the Technical Committee on Wealth Sharing. Note that the amounts transferred to the oil-producing states have been less in 2009 due to the lower oil prices. For example, in March 2009, Upper Nile State was due \$512,000, Southern Kordofan State \$1,977,000 and Unity State \$2,600,000

<sup>174</sup> Global Witness interviews with member of international community and an NGO worker, December 2008

<sup>175</sup> Global Witness interview with member of the international community, December 2008 176 Global Witness interview with NGO workers, December 2008

<sup>177</sup> Government of Southern Sudan 2009 budget speech, presented to the Southern Sudan Legislative Assembly by Kuol Athian Mawien, who was at the time Minister of Finance and Economic Planning, 10 December 2008

<sup>178</sup> Government of Southern Sudan, Ministry of Finance and Economic Planning, Draft budget 2009, page 55

<sup>179</sup> Monthly reports of the Technical Committee on Wealth Sharing

<sup>180</sup> Ministry of Finance and National Economy, 'Government of Southern Sudan oil revenue share, December 2007' [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1). The quoted figure is the sum of the transfers to the southern government for their share in exported oil of \$1,061,450,000 and transfers to the southern government for their share in revenues from oil sold to local refineries of \$396,380,000. The AEC also reported that, according to information provided by the Fiscal and Financial Allocation and Monitoring Commission (FFAMC), the allocation of revenue to the southern government for 2007 was 2.798 billion Sudanese pounds, or about \$1.4 billion

<sup>181</sup> Auditor General's summary of the annual report on the final accounts of the national government for the financial year ending 31 December 2007, presented to National Assembly. The report states that the transfers to the southern government in 2007 were 3,357,000,000 SDG. This equates to \$1.724 bn using the average 2007 exchange rate of \$1:0.51366 SDG from [www.oanda.com](http://www.oanda.com). This figure includes all transfers, not just oil transfers. This cannot explain the difference in the figures though as non-oil transfers to the southern government were budgeted to be 8 million SDG in 2007, only 0.28% of total budgeted transfers. [Government of National Unity 2008 Budget Preparation. From table 8, Actual Performance for the General Expenditure, 2007]

<sup>182</sup> Global Witness interview with oil analyst, July 2008

<sup>183</sup> World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007. And: From December 2006 to February 2008 the balance of the account was around \$50-\$100 million, despite the fact that the total deposits during this time were approximately \$600 million. Between March and August 2008, a larger account balance was built up, of between \$250 million and \$500 million. This is still considerably smaller than it could have been though: the account balance represents one or two months' savings; the rest was withdrawn, even during this period of record high oil prices. [Sources: IMF First Review of Performance Under the 07-08 Staff Monitoring Program, June 08 and Ministry of Finance and National Economy, GOSS Share From Crude Oil Revenues, Sept 08.] It should also be noted, though, that in addition to the savings in the ORSA, the Government of Southern Sudan saved approximately \$200-300m when oil prices were high in 2008 in a futures account.

<sup>184</sup> The Economist, Fear of Fragmentation, 11 April 2009; Sudan Tribune, Sudan's SPLM soldiers stage pay protest, 26 March 2009

<sup>185</sup> The report produced by the Ministry of Finance and National Economy for the monthly meetings of the technical wealth sharing committee states that 'all proceeds from exported oil of blocks 1,2,4' are deposited into the ORSA; blocks 1, 2 and 4 account for the majority (but not all) of Nile blend. In addition to this, there is also Nile blend oil from block 5A and Dar blend from blocks 3 and 7. In addition, the IMF also states that the Sudanese government says that the ORSA specifically comes from Nile blend revenues [IMF, First Review of Performance Under the 2007-08 Staff-Monitored Program, June 2008]. Figures published on the national Ministry of Finance and National Economy's website back up these assertions. They show the amount of money added to the ORSA from individual

exports of oil, with only exports of Nile blend being listed, not Dar blend, even though the price of Dar blend in 2008 was higher than the benchmark price of \$63 per barrel

<sup>186</sup> When the national government withdraws from the account, it transfers a proportion of the withdrawal to the southern government, regardless of whether GOSS needs the funds at that time [Global Witness interviews with members of the international community; and World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007

<sup>187</sup> Assessment and Evaluation Commission, Mid Term Evaluation Report, July 2008

<sup>188</sup> Assessment and Evaluation Commission, Mid Term Evaluation Report, July 2008

<sup>189</sup> Sudan Tribune, South Sudan VP says agreement nears on referendum law, 16 April 2009. The article quotes Vice President Riek Machar as saying that the current law governing the Central Bank of Sudan deprives the Bank of Southern Sudan from owning national reserves <http://www.sudantribune.com/spip.php?article30895>

<sup>190</sup> Sudan Tribune, South Sudan VP says agreement nears on referendum law, 16 April 2009 <http://www.sudantribune.com/spip.php?article30895>

<sup>191</sup> Speech by the Special Representative of the UN Secretary General and head of the United Nations Mission in Sudan, Ashraf Jehangir Qazi, London, 2009, reported to Global Witness by a person present at the speech.

<sup>192</sup> International Crisis Group, Sudan: Breaking the Abyei Deadlock, 12 October 2007

<sup>193</sup> Chatham House, Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement, 9 January 2009, quoting an interview with an UNMIS official

<sup>194</sup> Chatham House, Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement, 9 January 2009

<sup>195</sup> Norwegian Agency for Development Cooperation (NORAD), Oil for Development annual report 2007-2008

<sup>196</sup> Global Witness interview with member of international community, December 2008

<sup>197</sup> March 2009 report to the Joint Technical Committee on Oil Revenue Distribution

<sup>198</sup> March 2009 report to the Joint Technical Committee on Oil Revenue Distribution

<sup>199</sup> Vanguard (Nigeria), NIETI [sic] (Nigeria Extractive Industries Transparency Initiative) Saves Nigeria \$1 Billion – Okogwu, 2 January 2007

<sup>200</sup> International Monetary Fund, Sudan: First Review of Performance Under the 2007-08 Staff-Monitored Program, June 2008, <http://www.imf.org/external/pubs/cat/longres.cfm?sk=22011.0>

<sup>201</sup> International Monetary Fund. Sudan: 2007 Article IV Consultation and Staff-Monitored Program, October 2007, <http://www.imf.org/external/pubs/cat/longres.cfm?sk=21397.0>; and Sudan: First Review of Performance Under the 2007-08. The government said that it could not provide the full audits to the IMF because of legal constraints [Global Witness communication with Sudan oil expert, June 2009]. Staff-Monitored Program, June 2008, <http://www.imf.org/external/pubs/cat/longres.cfm?sk=22011.0>

<sup>202</sup> World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007, [http://siteresources.worldbank.org/INTSUDAN/Resources/SD\\_PER\\_synthesis\\_report.pdf](http://siteresources.worldbank.org/INTSUDAN/Resources/SD_PER_synthesis_report.pdf)

<sup>203</sup> World Bank, Sudan Public Expenditure Review: Synthesis Report, December 2007, [http://siteresources.worldbank.org/INTSUDAN/Resources/SD\\_PER\\_synthesis\\_report.pdf](http://siteresources.worldbank.org/INTSUDAN/Resources/SD_PER_synthesis_report.pdf)

<sup>204</sup> United Nations Commodity Trade Statistics Database, <http://comtrade.un.org/db/>

<sup>205</sup> The Bank of Sudan listed the values of petroleum products exported during 2006 as being: Japan \$515,704,000; Switzerland \$15,971,000; Ethiopia \$50,101,000; China \$1,670,711,000; Lebanon \$793,000; United Arab Emirates \$45,141,000; Other Asian countries \$15,530,000. Of these, customs data could not be obtained for Ethiopia, Lebanon or UAE, which represent 5.4% of total exports, by value. These data are no longer on the Bank of Sudan's website, but are reproduced in European Coalition on Oil in Sudan, Fact Sheet II: The Economy of Sudan's Oil Industry, October 2007. The Bank of Sudan also listed the values of petroleum products exported between Jan-Sept 2007 as being: Italy \$1,053,000; Japan \$388,335,000; Netherlands \$52,097,000; Eritrea \$53,000; Ethiopia \$27,729,000; China \$5,024,828,000; Lebanon \$609,000; UAE \$182,839,000. Of these, customs data could not be obtained for Eritrea, Ethiopia, Lebanon or UAE, which represent 3.7% of total exports, by value

<sup>206</sup> US Department of Energy, Energy Information Administration, <http://www.eia.doe.gov/emeu/ipsr/te2.xls>

<sup>207</sup> Bank of Sudan, annual report 2006, page 24, <http://www.cbos.gov.sd/english/Periodicals/annual/annual06e/appendix.pdf>. The report quotes a full figure of 90,085,298 barrels of oil exported in 2006

<sup>208</sup> United Nations Commodity Trade Statistics Database, <http://comtrade.un.org/db/>. Japan 45,800,555 barrels; China 36,112,313 barrels; South Korea 3,245,930 barrels; India 1,162,847 barrels; Indonesia 1,151,982 barrels

<sup>209</sup> Bank of Sudan annual report 2007, quoting the Sudan customs authority <http://www.cbos.gov.sd/english/Periodicals/annual/annual07.pdf>

<sup>210</sup> All data from United Nations Commodity Trade Statistics Database, <http://comtrade.un.org/db/>, apart from Indonesia which had not reported to this database for 2007 at time of publication. Indonesia data purchased from Data Trade Services; the data originates from the same source as the United Nations Commodity Trade Statistics Database: the customs organizations of the importing countries. China 76,780,372 barrels; Japan 37,487,972 barrels; South Korea 5,759,114 barrels; India 3,874,213 barrels; Indonesia 3,566,635 barrels; Malaysia 757,826 barrels; EU-27 318,992 barrels

<sup>211</sup> Ministry of Finance and National Economy data. Exports have been calculated as the total production (from all blocks) minus sales to refineries. Production and domestic consumption data from [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1](http://www.mof.gov.sd/topics_show_E.php?topic_id=1), file "GOSS share from oil revenue Dec 08". This is the data presented to the Joint Technical Committee for Oil Revenue Distribution. It states that total production in 2008 from all blocks except block 6 was 155,658,086 barrels and sales to refineries from all blocks except block 6 was 20,458,000 barrels

<sup>212</sup> Data from the United Nations Commodity Trade Statistics Database, <http://comtrade.un.org/db/> (Malaysia and EU-27), Data Trade Services (China, Japan, Indonesia), Infodriveindia.com (India), South Korean customs online (South Korea, <http://english.customs.go.kr/kcsweb/user.tdf?a=user.itemimportexport>.

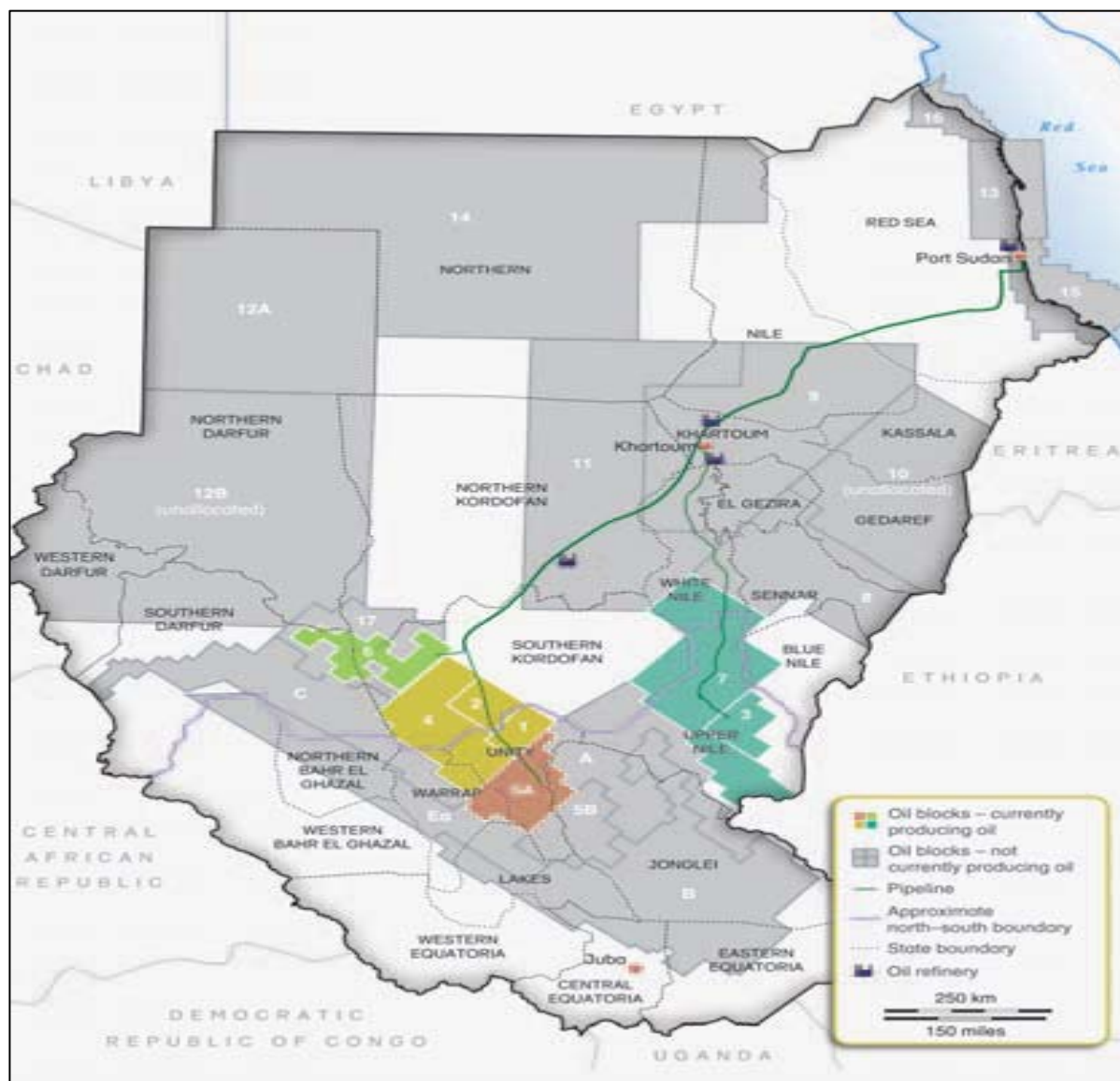
ItemImportExportApp&c=1001&mc=ENGLISH\_INFORMATION\_TRADE\_040). China 78,239,964 barrels; Japan 38,160,310 barrels; Indonesia 5,619,359 barrels; India 3,238,319 barrels; South Korea 1,548,024 barrels; Malaysia 621,329 barrels; EU-27 7 barrels

<sup>213</sup> US Department of Energy, Energy Information Administration, <http://www.eia.doe.gov/emeu/ipsr/te2.xls>

<sup>214</sup> US Department of Energy, Energy Information Administration, [http://tonto.eia.doe.gov/dnav/pet/pet\\_pri\\_wco\\_k\\_w.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pri_wco_k_w.htm)

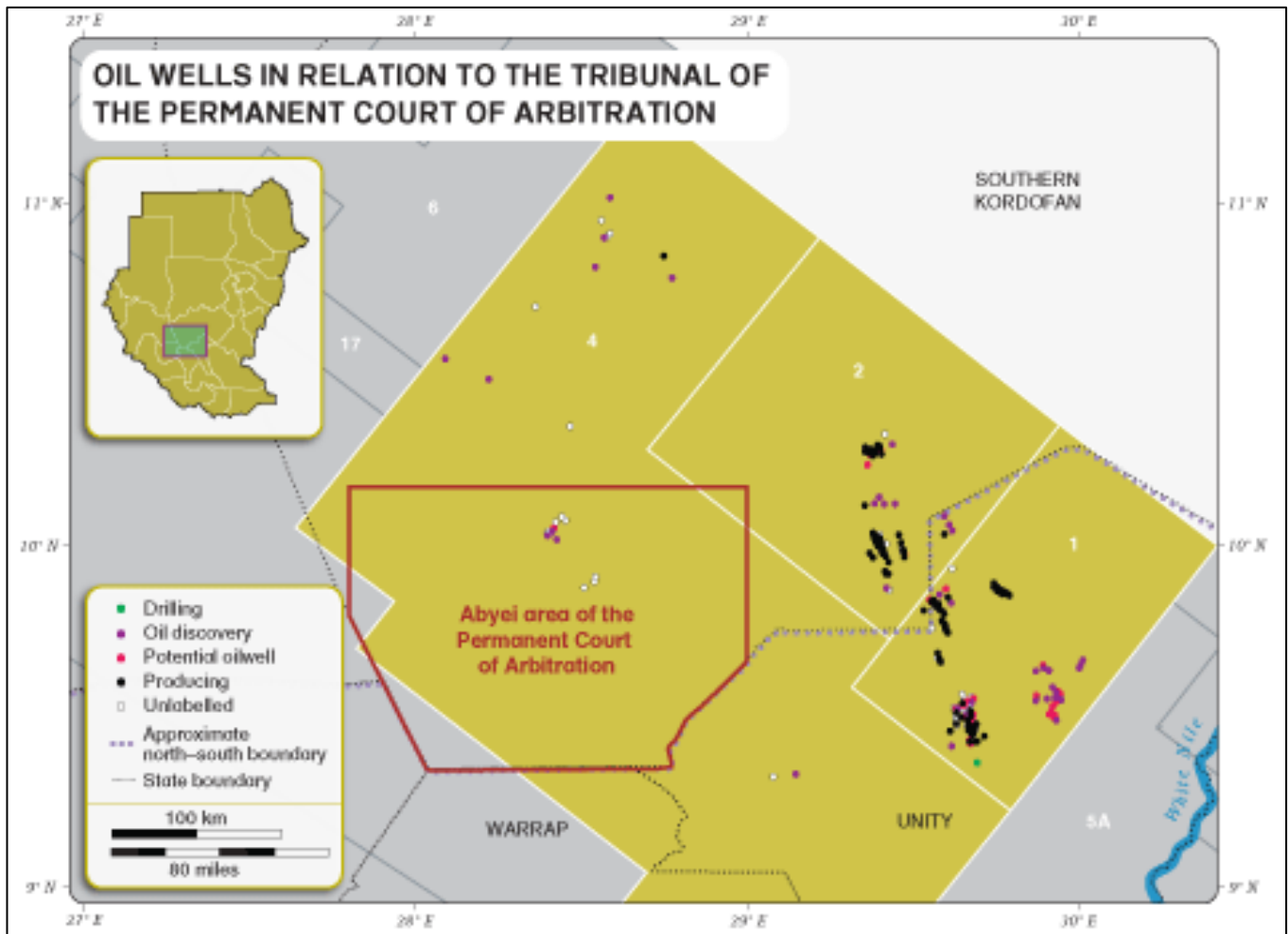
<sup>215</sup> See, for example, any of the reports published by the Ministry of Finance and National Economy for the IMF on [http://www.mof.gov.sd/topics\\_show\\_E.php?topic\\_id=1#](http://www.mof.gov.sd/topics_show_E.php?topic_id=1#) such as 'IM report Jan up to September 2008' or 'Template for publication of Sudan oil sector data'

**Map 1: Oil Blocks in Sudan**



Source: Global Witness.

Map 2: Abyei Oil Wells in Relation to the Tribunal of the Permanent Court of Arbitration



Source: Global Witness.