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From the Selected Works of Barrie Hansen JD (Hons), LL.M

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**SOUTHERN SUDAN SELF-
DETERMINATION PRIVATE MEMBERS
MOTION 2010**

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The Commonwealth of Australia recognizes the importance of the full implementation of the Comprehensive Peace Agreement 2005 between the peoples of northern Sudan and the peoples of southern Sudan in order to help ensure peace and stability in Sudan during and after the self-determination referenda mandated by the Comprehensive Peace Agreement.

THE COMMONWEALTH OF AUSTRALIA

A PRIVATE MEMBERS MOTION¹ PROPOSED BY Ms JANELLE SAFFIN, REVIEWED BY THE HONOURABLE KEVIN RUDD, MINISTER OF FOREIGN AFFAIRS AND TRADE, AND SUPPORTED BY THE COMMONWEALTH OF AUSTRALIA'S JOINT STANDING COMMITTEE ON AFRICAN AFFAIRS

Southern Sudan Self-Determination Private Members Motion 2010

PREAMBLE²

The Commonwealth of Australia wishes to express its commitment to the full implementation of the Comprehensive Peace Agreement 2005 between north Sudan and south Sudan to help ensure peace and stability in Sudan during and after mandated referenda.

Whereas Sudan stands at a crossroad, in the final phase of what could be a historic transition from civil war to peace, and Sudan's full implementation of the Comprehensive Peace Agreement 2005 (CPA) in 2011 will determine the future of this centrally important country in Africa, as well as the stability of the region;

¹ Drafted by B Hansen JD (Hons); Reviewed by Dr. T Hunter JD PhD: Tabled by Hon Janelle Saffin, MP Australian House of Representatives, and supported by Australian Minister of Foreign Affairs and Trade, Hon. Kevin Rudd, and his Chief of Staff, Philip Green.

² The preamble was written with extensive input on South Sudan's history from the US State Department, the Carter Center, and the Australian Department of Foreign Affairs and Trade. Many thanks to those who gave tirelessly of their time. Thank you to Lual Jok Alaak, and his inspiring story of escape from the ravages of South Sudan to Kenya and ultimately to Australia, and a special thanks for guidance and inspiration from Dr Luka Biang Deng, and the thousands of South Sudanese who make Australia their home.

Whereas January 2010 marked the fifth anniversary of the signing of the CPA which ended more than 20 years of civil war between northern and southern Sudan, fueled by northern persecution of populations in the south, that resulted in the deaths of more than 2,000,000 people in the southern Sudan, and the displacement of over 4,000,000 people in southern Sudan;

Whereas the CPA committed the northern-dominated National Congress Party (NCP) and the southern-dominated Sudan People's Liberation Movement (SPLM), to assume joint governing responsibility during a six-year Interim Period ending in 2011;

Whereas Sudan's April 2010 elections did not meet international standards due to widespread and continuing violations of political rights, irregularities in voter registration, significant logistical and procedural shortcomings, intimidation and violence in some localities, and the continuing conflict in Darfur which prevented full campaigning and voter participation;

Whereas the conflict in the Western Sudan region of Darfur remains unresolved, with over 300,000 people killed and over 2,000,000 people still displaced in a highly unstable security situation perpetrated largely by the northern government in Khartoum;

Whereas the Australian Department of Foreign Affairs and Trade has designated Sudan a country of particular concern for its systematic, ongoing, and egregious violations of religious freedom or belief and related human rights;

Whereas at the end of the Interim Period in January 2011, the CPA requires a referenda on self-determination for southern Sudan and on whether an area called Abyei, which stands across a portion of the north-south border, will remain in the north or join the south;

Whereas following the Interim Period it has been agreed by the NCP and through popular consultations, that the two regions immediately to the north of southern Sudan, namely Southern Kordofan State and Blue Nile State, are to jointly determine the governance arrangements in those two states;

Whereas it is essential to peace and stability in the region that the referenda and accompanying popular consultations are held on time, that they are free, fair, and credible, and that if the outcome of the southern Sudan referendum is independence, two stable and viable democratic states result;

Whereas the Government of Southern Sudan faces post-conflict reconstruction challenges including establishing democratic, responsive, and transparent governance, addressing human resources and capacity-building needs, strengthening and reforming the judiciary and security forces to address communal and inter-ethnic violence, professionalizing the police and security forces, developing basic infrastructure, natural resources and the economy; providing basic services including water, education, health care and social services, and establishing cooperative and transparent wealth-sharing mechanisms;

Whereas in August 2009, the NCP and SPLM signed a bilateral agreement to address and implement many of the CPA's outstanding provisions, but since that time the NCP has consistently delayed and reneged on its CPA commitments, thereby increasing tension and distrust between northern and

southern Sudan and endangering the CPA by infringing on the freedom of speech, assembly, and association of candidates, political party activists, and journalists during and after the election process, including censoring the media and arresting political party leaders;

Whereas the NCP continues to restrict and disrupt United Nations peacekeeping, humanitarian operations, and human rights organizations in Darfur;

Whereas the Commonwealth of Australia has played a central role in caring for southern Sudanese refugees;

Whereas the Commonwealth of Australia is prepared to assist the implementation of the CPA and in particular as a monitor of the self-determination referenda;

Whereas the Commonwealth of Australia is prepared to act as one of the guarantors of CPA, and is further prepared to play an active role bilaterally and multilaterally to bring about a just and lasting peace in Sudan;

Whereas the the Commonwealth of Australia has concluded that the CPA between the North and South will be a flashpoint for renewed conflict if not fully implemented through viable elections, a referendum on self-determination for the peoples of Southern Sudan, resolution of any remaining border disputes, and the willingness of the respective parties to live up to their agreements; and

Whereas sustained pressure and engagement from the international community in support of the CPA, including the upcoming referenda, is essential to bring about sustainable peace in Sudan:

PRIVATE MEMBERS MOTION

Now therefore be it Resolved that the Commonwealth of Australia has determined it should-

1. work with Sudanese parties and regional and international partners to build consensus on the steps needed to implement the Comprehensive Peace Agreement (CPA), including the upcoming referenda, and promote stability throughout Sudan;
2. engage Sudanese and international partners to correct serious and systemic problems in the election process to ensure that they do not reoccur during the referenda campaign and voting processes, including irregularities in voter registration, logistical and procedural challenges, poor voter education, human rights infringements, intimidation, and violence;
3. work with Sudanese and international partners to ensure that the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) implement procedures whereby the referenda occur as scheduled on 9 January 2011, including appointing competent and credible members to the referenda commissions and providing technical assistance, and funding, including oversight management services from the Australian Electoral Commission should that request be made by the Government of Southern Sudan;
4. work with the United Nations Mission in Sudan to ensure security during and after the referenda campaign and voting processes, which will require a robust monitoring and protection presence in areas prone to conflict;

5. take concrete steps through the contribution of resources, technical expertise, and direct engagement with the parties to the peace agreement to ensure –
 - A. international monitoring and observation of registration and polling to guarantee a secure environment for individual registration and voting, and to prevent voter intimidation or fraud occurring during these critical phases of the referenda;
 - B. that the Government of National Unity (GNU), as required by the CPA, provide adequate funding at predetermined levels and timelines for the registration and polling periods, given the need to ensure that those who register are able to access polling stations on voting day; and
 - C. that the Commonwealth of Australia, as a leading member of the international community, commit adequate resources and technical expertise to carry out the referenda and voter education programs in southern Sudan, Abyei, and other areas where people will vote in the referenda to promote understanding of the nature, importance of participation, and consequences of the referenda process;
6. work with international and Sudanese partners to ensure-
 - A. the right of return of Sudanese refugees and displaced persons, including Darfuris and southern Sudanese, by providing assistance and safe passage to all such persons; and
 - B. that the citizenship rights of southerners in the north and northerners in the south are respected and are in

accordance with international standards should the people of southern Sudan vote for independence;

7. work with international partners to ensure a stable north-south border and a permanent peace in Sudan, utilizing policy options if parties fail to honor the Comprehensive Peace Agreement, especially as it relates to border demarcation pre-referenda;
8. utilize diplomats and experts to support the African Union and United Nations-led negotiations over the post-referendum issues, including working with international partners to engage the NCP and SPLM to make necessary arrangements for a post-2011 peaceful transition, with specific focus on petroleum, transportation, revenue sharing, citizenship, return of refugees and displaced persons, security arrangements along the border, and protection of the rights of minorities, particularly the religious and ethnic minorities historically marginalized;
9. take concrete steps through the contribution of resources, technical expertise, and direct engagement with the NCP and SPLM to support the popular consultation processes in Southern Kordofan State and Blue Nile State, including through provision of technical assistance and support for public education;
10. utilize diplomats and southern Sudanese experts to revitalize the Darfur Peace Process and press the NCP, northern political parties, armed rebel movements, and civil society representatives to address human rights abuses (including gender-based violence) and the ongoing atrocities and displacement in Darfur;
11. undertake renewed efforts to implement the Commonwealth of Australia's Sudan policy, including

publicly articulating the benchmarks and related incentives and pressures that may be used by the Commonwealth of Australia to gauge progress or backsliding on key provisions of the CPA, including the holding of a free and fair referendum in southern Sudan;

12. hold the NCP accountable for its actions given the NCP's human rights violations and efforts to impede CPA implementation since the announcement of the United Nation's Sudan policy, and the need for the members of the United Nations to both balance incentives with pressures, by-

A. identifying NCP government agencies and officials responsible for particularly severe human rights and religious freedom violations as may be determined by the Minister of Foreign Affairs and Trade pursuant to s116 of the Commonwealth of Australia Constitution Act, and so determined, barring those persons from entry into Australia;

B. encouraging multilateral asset freezes on NCP government agencies and travel bans on officials responsible for particularly severe human rights and religious freedom violations;

C. continuing to encourage greater multilateral enforcement of the arms embargo set out in the 2004 United Nations Security Council Resolution 1556 and strengthened in the 2005 United Nations Security Council Resolution 1591;

D. continuing to encourage multilateral support of the International Criminal Court case against President Bashir and other Sudanese officials accused of genocide, war crimes, or crimes against humanity,

recognizing that justice is essential for there to be lasting peace; and

E. vigorously advocating for any humanitarian organizations that come under pressure from Khartoum or are at any point expelled from the country, thereby compromising their ability to provide vital services;

13. provide technical assistance and expertise to the Government of Southern Sudan to develop its economic, rule of law, and social service and educational and health infrastructures, improve democratic accountability and human rights, and strengthen reconciliation efforts;

14. unequivocally support the people of southern Sudan who share aspirations for a peaceful, prosperous and democratic future;

15. following the referenda, if the people of southern Sudan choose to form an independent nation, to recognize their right to self-determination and assist in the recognition of that right by the international community; and

16. following the referenda, if the people of southern Sudan choose to form an independent nation, to ensure the success of the new nation by promoting investment by Australia in the resource, infrastructure, and agricultural industries of southern Sudan in order to promote the economic prosperity and stability of this important part of the African continent.