

**SUDAN: A REVIEW OF THE ADMINISTRATION'S  
NEW POLICY AND A SITUATION UPDATE**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON AFRICA AND GLOBAL HEALTH  
OF THE  
COMMITTEE ON FOREIGN AFFAIRS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS  
FIRST SESSION

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## **SUDAN: A REVIEW OF THE ADMINISTRATION'S NEW POLICY AND A SITUATION UPDATE**

**THURSDAY, DECEMBER 3, 2009**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON AFRICA AND GLOBAL HEALTH,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:15 a.m. in room 2172, Rayburn House Office Building, Hon. Donald M. Payne, (chairman of the subcommittee) presiding.

Mr. PAYNE. The hearing of the Subcommittee on Africa and Global Health will come to order. Agenda, Sudan: A Review of the Administration's New Policy and a Situation Update.

First of all, let me begin by welcoming our first panelists. But before we get into the hearing on Sudan, I would like to regretfully report that this morning an estimated 20 people were killed in Mogadishu in Somalia, including three ministers. Two of the ministers I knew very well. I visited Mogadishu 7 months ago and met with these ministers, the Minister of Education, the Minister of Health, and we had had previous meetings in Nairobi. It was a graduation of the medical school in Mogadishu where this tragedy occurred. And so we would like to express our condolences to the victims and their family members, the transitional Federal Government of Sheikh Sharif Sheikh Ahmed and the people of Somalia.

Secondly, I just got off the phone with the President of Puntland. Puntland, as you know, is one of the three Somali regions that include Somalia, Puntland, and Somaliland. And we just reached an agreement this morning on prisoners who were being detained by the government of Puntland. These were people from the Ogaden, and they were being held without cause. And so we have been working with the President of Puntland to try to get their release. And this morning the President will announce that he will commute their sentences and he will release them. And so I would like to thank the President of Puntland and Amnesty International, and Jim Hill, who have been working with Puntland's representative in the Ogaden community here in this area.

Let me then move to our hearing this morning, Sudan: A Review of the Administration's New Policy and a Situation Update. Let me also express my deep appreciation to the witnesses who are certainly among the most knowledgeable people on Sudan. Over the years, we have held so many hearings and briefings on Sudan, and people here are tremendously interested in trying to bring atten-

tion to the suffering of innocent civilians and in the hope of promoting a just peace for all.

Many believe and hope that the signing of the Comprehensive Peace Agreement or the Darfur Peace Agreement would bring about the much-desired peace and stability in Sudan. Unfortunately and despite multiple efforts, millions of Sudanese continue to suffer. I sometimes wonder if we will ever get a just peace in Sudan as long as the al-Bashir regime is in power. For those who still believe that a peace agreement with this regime will bring an ending to the suffering, I say look again at the situation in Darfur and in Abyei.

Some of us saw firsthand the aftermath of the burning of Abyei by government and pro-government militia in May 2008 when more than 50,000 people were displaced from their homes. As a Senator, President Obama stated, "For years, the Government of Sudan has thwarted the will of the United States and the international community and offended the standards of our common humanity. Before we improve our relations with the Government of Sudan, conditions must improve for the Sudanese people. We cannot stand down. We must continue to stand up for peace and human rights."

I fully agree with then-Senator Obama, now our President. It was not long ago that we witnessed another horrific genocide in Africa. The international community, including the United States, turned a blind eye to the gruesome genocide in Rwanda in 1994. In Rwanda, an estimated 1 million people died in less than 100 days. In Darfur, 6 years since the genocide began, the people of Darfur are still waiting for the suffering to end.

A few years ago I stated, "If Rwanda was a black mark on our conscience, Darfur is a cancer that will destroy the moral fiber of our society." This is still the case. I am not opposed to a policy of engagement. In fact, I always argue we should give peaceful dialogue a chance before we declare war.

For some, our policy is too focused on punitive measures. I beg to differ. The United States has been at the forefront when it comes to engagement. We never disengaged. The United States has appointed more special envoys to Sudan than it has to any other country in Africa. Why? In order to secure a just peace. We have imposed punitive measures against this regime, but we have always helped the Sudanese people.

In October 2009, last month, the Obama administration announced a new policy toward Sudan. The policy focuses on three priorities: An end to the conflict in Darfur, implementation of the Comprehensive Peace Agreement, the CPA, and ensuring Sudan does not become a safe haven for international terrorist groups.

The new policy clarifies a number of issues that surfaced in recent months and reaffirms the conflict in Darfur, that it is genocide, stating that the United States's primary objective in Darfur is "a definite end to conflict, gross human rights abuses and genocide in Darfur." The new Sudan policy also states that cooperation on counterterrorism without verified progress on other issues will not lead to a normalization of relations.

The administration also plans to enhance U.S. assistance to South Sudan and to help prepare that country for a possible two-

state outcome should the people choose independence in the 2011 referendum. I fully support the policy objectives of the new policy.

The question remains, What if the regime continues to obstruct these efforts? What are we doing to promote justice and accountability? The United States Government supports a transparent, free and fair election in Sudan. Can those elections be free and fair while 3 million people are still displaced in refugee camps? By supporting the elections with Bashir as a candidate, are we saying no to justice and accountability? It is my hope that through the course of today's hearing we will gain greater insight into these critical issues.

Let me once again thank our distinguished witnesses. And before I introduce them, let me turn to our Senator, who has graced us. As you know, Senator Brownback has been a leading witness and fighter on the questions of Sudan, and in lieu of the ranking member, I will certainly turn the mike over. We are pleased to have you with us, Mr. Senator.

[The prepared statement of Mr. Payne follows:]

**Opening Remarks of Chairman Donald M. Payne  
A Hearing of the Subcommittee on Africa and Global Health  
"Sudan: A Review of the Administration's New Policy and a Situation Update"  
Thursday, December 3, 2009  
10:00 AM in 2172 RHOB**

Good morning and welcome to this very important hearing entitled "**Sudan: A Review of the Administration's New Policy and a Situation Update.**"

Let me also express my deep appreciation to the witnesses, who are certainly among the most knowledgeable people on Sudan.

Over the years, we have held so many hearings and briefings on Sudan to bring attention to the suffering of innocent civilians and in the hope of promoting a just peace for all.

Many believed and hoped that the signing of the Comprehensive Peace Agreement and/or the Darfur Peace Agreement would bring about much desired peace and stability in Sudan. Unfortunately, and despite multiple efforts, millions of Sudanese continue to suffer.

I sometimes wonder if we will ever get a just peace in Sudan as long as the el-Bashir regime is in power. For those who still believe that a peace agreement with this regime will bring an end to the suffering, I say look again at the situations in Darfur and in Abyei. Some of us saw first-hand the aftermath of the burning of Abyei by government and pro-government militia in May 2008, when more than 50,000 people were displaced from their homes.

As a Senator, President Obama stated: "*for years, the Government of Sudan has thwarted the will of the United States and the international community, and offended the standards of our common humanity. Before we improve our relationship with the Government of Sudan, conditions must improve for the Sudanese people. We cannot stand down, we must continue to stand up for peace and human rights.*" I fully agree.

It was not long ago that we witnessed another horrific genocide in Africa. The international community, including the United States, turned a blind eye to the gruesome genocide in Rwanda in 1994. In Rwanda, an estimated one million people died in less than 100 days.

In Darfur, six years since the genocide began, the people of Darfur are still waiting for the suffering to end. A few years ago I stated, "If Rwanda was a black mark on our conscious, Darfur is a cancer that will destroy the moral fiber of our society." This is still the case.

I am not opposed to a policy of engagement. In fact, I always argue we should give peaceful dialogue a chance before we declare war. For some, our policy is too focused on punitive measures. I beg to differ.

The United States has been at the forefront when it comes to engagement. We never disengaged.

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The new Sudan policy also states that cooperation on counter-terrorism without verifiable progress on other issues will not lead to a normalization of relations.

The Administration also plans to enhance U.S. assistance to South Sudan and help prepare the country for a possible two-state outcome should the people choose independence in the 2011 referendum. I fully support the policy objectives.

The questions remains: what if the regime continues to obstruct these efforts? What are we doing to promote justice and accountability? The United States government supports a transparent, free, and fair election in Sudan.

Can these elections be free and fair while three million people are in displaced and refugee camps? By supporting the elections, with Bashir as a candidate, are we saying no to justice and accountability?

It is my hope that through the course of today's hearing we will gain greater insight into these critical issues.

Let me once again thank our distinguished witnesses. Before I introduce them, let me turn to the Subcommittee Ranking Member, Chris Smith, for opening remarks.

Senator BROWNBACK. Thank you very much, Chairman Payne, I appreciate it. Thank you for the invitation to be here today. I know this is highly unusual, but I am honored and I am pleased.

I would note to the crowd, and a number of people already know this, but when we declared genocide when it was taking place in Darfur, it was Congressman Payne, you were the one that led that effort and that charge. And a number of people were saying, Well, do we really want to do this, is this really the time, is this really the place? And you fought and said yes, it is, let us not do it after it happens, let us try to stop it while it is happening. And you leaned in aggressively, and we did that for the first time in I believe the history of this country. And it was important.

That is what draws my attention to be here today. In the ashes of World War II, the international community adopted the Geneva Convention and the Convention on the Prevention and Punishment of the Crime of Genocide, designed among other reasons to protect against and deter future mass atrocities.

Now, since its adoption, these conventions have served as the basis for targeting and bringing to justice several notorious war criminals and perpetrators of mass atrocities. The United States has participated in several cases. We helped to bring to justice former Serbian leader Karadzic, the so-called Butcher of Bosnia, accused of slaughtering hundreds of thousands of innocent people. We even put a \$5 million reward for information leading to his capture, and he currently resides in prison at The Hague.

Charles Taylor, the warlord turned leader of Liberia, assumed power in the 1990s on an election slogan of "He killed my ma, he killed my pa, but I will vote for him." Taylor was directly involved in coordinating and supporting unthinkable atrocities over many years. The Congress passed legislation offering a \$2 million reward for Taylor's capture. He was caught having fled to Nigeria and now sits in a prison at The Hague alongside some of the world's worst offenders of human rights. The United States was involved in that one as well.

Yet despite American interest and involvement in these and other cases, there is only one instance in the history of the United States when our Government acknowledged and declared a genocide at the time it was taking place. It was one I just alluded to. That place is Sudan, and the genocide declared in 2004 continues under our watch today.

Under the reign of President Bashir, the Khartoum Government has committed two genocides. Sudan has become a haven for al Qaeda, another terrorist organization, while the regime provides support for Joseph Kony's Lord's Resistance Army, the most horrific terrorist group in Central Africa today.

Added to that, in March, the International Criminal Court issued an arrest warrant for Bashir on five counts of crimes against humanity and two counts of war crimes. His government responded by expelling more than a dozen humanitarian groups from Darfur, seizing their assets and threatening life-saving operations in Darfur.

Based on our nation's leadership in the past, one might think that such a unique and tragic designation in Sudan would have triggered a massive effort not only to bring an end to the genocide

but also to bring justice to the perpetrators. And indeed, at one point, the tragedy of Sudan's genocide did stir this country.

I recall, as many of the people in the audience will, mass rallies to save Darfur, headlined by Hollywood celebrities, countless student initiatives at universities across the country and successful efforts to divest at the state and local level. At that time, for the American people, nothing short of peace for the victims and justice for the criminals would suffice. This was the organic compassion embedded in the American ethos bursting forth to aid our brothers and sisters in distress a world away.

Now the previous administration fell short of ending the ongoing genocide. The Obama administration's new policy would actually provide a package of incentives to offer the perpetrators of genocide to the indicted war criminal, Omar al-Bashir, incentives. In effect, the policy is to allow the genocidal regime in Khartoum to trade away some political and territorial concessions in exchange for measures, such as diplomatic recognition and the easing of sanctions, which flaunt the fundamental principles of justice and accountability.

I strongly oppose any approach toward Sudan that gives incentives and rewards to a genocidal regime headed by the Sudanese President, who is an indicted war criminal himself. Such a policy is engagement to the extreme and blind to fundamental principles of justice. This new policy sends the wrong messages to tyrants around the world, that they will not be brought to justice and instead may even receive American concessions for merely rolling back the intensity of their brutality.

Our Government is trying to apply nuance to genocide, an approach that would be comical were it not so reprehensible. We cannot trade justice for peace. The ends do not justify the means.

I look forward to hearing from the witness today, General Graton, of your thoughts on this. But I cannot believe we would offer incentives to a genocidal regime that is headed by an indicted war criminal.

I thank you very, very much, Mr. Chairman, for allowing me this unusual honor to serve with you on this panel.

Mr. PAYNE. Well, let me thank you very much and once again express my appreciation for the many years that you have worked on this issue and codell travel that you led a decade ago or more, so your record is very clear, and I appreciate you taking the time to come here. Thank you.

Congresswoman Lee.

Ms. LEE. Thank you very much, Mr. Chairman, and again, thank you for your leadership in holding this hearing. And I want to associate myself with Senator Brownback's remarks with regard to your leadership and being really the lone voice for many years in terms of declaring genocide as taking place in Sudan. We all know that that is the case, and we appreciate your leadership and for bringing us together really in a bipartisan way. I see Congressman Wolf in the audience.

I visited Sudan the first time, I have been three times with Mr. Royce of California. And I think that all of us have concluded that this is an issue of humanitarian concerns. It is one of national se-

curity. It is an issue that should not be happening on our watch. Genocide should not be happening in this century.

I am pleased to see General Gration. We talked before about the new policy. I am anxious to hear what has developed in moving forward on this because I think we all are anxious to see some concrete results. The people of Sudan deserve no less.

I also have to commend the young people in our faith community for continuing with the simple message of save Darfur. They have really, truly been the wind beneath our wings here in Congress to bring this bipartisan consensus on divestment, on genocide and all of the actions that we have taken here.

But we all know, as time and history have shown us, that the regime in Khartoum can be very creative in its obstinacy and in complying with international law on human rights even as it continues to perpetrate further crimes and injustices. Sudan and its people have gone through a heck of a lot over the years. Too many deaths, too many people have been forced from their homes, too many families have been destroyed, too many women have been raped, too many children have been killed.

We have a moral responsibility to help the people of Sudan, the people of Darfur, achieve a peaceful and a stable future. So I hope that this new policy will produce a better set of results than what we have seen before, but I also know that we must retain our ability to impose harsher sanctions if this new direction does not bear fruit.

Thank you again, and thank you, Mr. Chairman.

Mr. PAYNE. Thank you. We will now hear from Mr. Royce, who for many years was the chair of the Subcommittee on Africa and has been a member of the committee for decades and has also worked very diligently on the whole question of Sudan. Thank you.

Mr. ROYCE. Thank you very much, Mr. Chairman. And I would say it is good to have General Gration before the committee. As the General well knows, we have a difference of opinion and have had for some time with respect to how we move forward with Khartoum.

I have been watching these war criminals for quite some time. At one point, General Gration, you and I had an opportunity in Darfur to see some of this firsthand. And I just wanted to thank John Prendergast, who is with us today, who helped guide us into Darfur, Sudan on that trip. And traveling alongside actor Don Cheadle, I chaired the delegation. We brought a Nightline camera crew, who you will remember, John, documented the atrocities that were committed not just by the Janjaweed militia used by the Sudanese Government—they also documented the atrocities committed by the Sudanese Government itself.

And this gets to the point that I want to make. And I also want to thank some of the other members who traveled with us, Barbara, on that trip, as Congresswoman Lee did. But I wanted to make several observations here.

One is thanks to the good work of Don Payne, and I chaired the committee when we put the genocide resolution through, we have a number of people that were involved in a principal way in putting this country on record in terms of where we would stand on

the issue of genocide. And we have the first eyewitness, we have the eyewitness accounts ourselves as to what was happening.

And I can share with you the testimony of one young boy who was missing his hand, and when asked what happened to it, he said, "Janjaweed." And the pictures that he and others had sketched out of the attacks that had occurred on his village were attacks not just by Janjaweed but also by Antonov Planes, operated by the Sudanese Government, that had dropped bombs on his city.

We went into Tina, which had been bombed by the Sudanese Government. We saw sketches of the halftracks and military vehicles and Sudanese Army troops that did the follow-up work to the Janjaweed when the Janjaweed was first sent in to commit the atrocities. The Army, the Sudanese Army came in afterwards. These are the reasons why Bashir is a war criminal, why he has been indicted by the International Criminal Court.

But this is only the beginning. The discussion in terms of what his militia, which is being worked up in southern Sudan to again begin this process, these are the war crimes of a head of state who to this day won't allow many of the NGOs back into Sudan in order to assist in trying to bring some level of humanity and sustenance to the victims of this.

But think for a minute what it means when the Sudanese Government assists a person like Joseph Kony, who is in the process of recruiting young children into the Lord's Resistance Army. Think about the fact that you have a militia whose purpose is simply to commit rape and mayhem across Central Africa. And then you have the surrendered commander of Kony's units who says that the Lord's Resistance Army is sponsored by Khartoum. This is something that we have known for a long time.

But it is good to finally have an officer in Kony's forces come forward and say no, we are in fact sponsored by Khartoum and testified to the intention of LRA leader Joseph Kony to move along the Central African Republic border of Chad and then into Darfur to meet officers of the Sudan armed forces, long reputed to be the LRA sponsors.

"Kony told me," says the officer, "that he was going to meet Fadeel, the SAF officer who coordinates LRA activities. He wants them to give him logistical support and a safe haven." Well, for many years that was the safe haven. That was the line of support for munitions and for wounded soldiers who were taken up and patched back into shape. This is the regime in Khartoum that we are dealing with.

And I will add one other thing. Kony urged all LRA units to make their way to Darfur and report to the first Arab military post they came across. Kony is desperate. He said things are very hard. We were constantly on the move. Sometimes we would not rest for a week. The Ugandans were pursuing us everywhere.

Well, this, my friends, is the reality of what is happening today. And the question is, What is the world going to do to bring an end to Kony's work, to bring an end to the barbarism that occurs and the suicidal and the genocidal acts that occur across Sudan? We took a certain commitment to put an end to genocide, and frankly, I think we got a rare victory the other day when Sudanese President Bashir's planned trip to Turkey was canceled.

But again, at the end of the day, we have got to ask ourselves the same question that we will hear in the testimony. The former Coordinator of the U.N. Panel of Experts on Sudan will testify this morning, "In contrast to that leadership of 2004 and 2005, the United States appears to have now joined the group of influential states who sit by quietly and do nothing to ensure that sanctions work to protect Darfurians."

I want to hear today why that is not the case. I think that is dead on. I think that has to change. And it is going to take more than just John Prendergast working 24/7 to make it change. It is going to take members of this committee committing themselves to getting back on offense and seeing justice done for the victims in Darfur.

Thank you very much, Mr. Chairman.

Mr. PAYNE. Thank you very much. Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman. I have not been as involved in the issue of Sudan and Darfur in particular as other members of the committee. I did with Ms. Lee visit Darfur and southern Sudan and Khartoum on a Congressional delegation led by Majority Leader Hoyer in April 2007.

But I am very troubled that we have not kept a promise, a promise that humanity made before I was born but that I feel bound by, never again. The promise was not never again in the Western world or never again in the developed world, it was never again. We could not put an end to all evil, but genocide was different and humanity everywhere would act together to prevent genocide anywhere.

There may be some problems of definition. There may be, where does an atrocity leave off and genocide begin? But it is very clear that there have been genocides since the Holocaust, in Cambodia, in Rwanda and now in Darfur. So we have not kept the promise of never again to allow genocide.

We have learned bitter lessons about how hard it is to shape events in various places in the world. We certainly can all criticize our Government's failures to put an end to it, but the truth is that the world, all of humanity, has not acted in a way that we promised more than 60 years ago.

I am pleased by the Obama administration's new emphasis on ending the genocide in Darfur, ending the violence and the atrocities, implementing the comprehensive peace agreement that ended the brutal, deadly civil war in southern Sudan. I welcome Ambassador Rice's comment that the strategy would be smart, tough and balanced. But the policy needs to be smart, tough and balanced in pursuit of a goal of ending genocide and ending the atrocities in the Sudan generally. Thank you. I yield back.

Mr. PAYNE. Thank you very much. Congresswoman Woolsey.

Ms. WOOLSEY. Thank you, Mr. Chairman. As a direct result of our chairman's responsible insistence that the Darfur genocide be identified before rather than after all these atrocities become history, the people in my district—I am from Petaluma, California—started an effort called Dear Darfur, Love Petaluma. That effort has become an entire Bay Area effort. And they followed up after knowing that we stepped up to the plate and knew that genocide was occurring and we weren't turning our heads and knew that

they had to do something about it. I am so happy that I represent such great people and work with such great people.

And they know as well as we know we are at a very important point in Sudan's future right now. Their history is going to be written as we are Members of Congress, and we have such an important role to play, and I am truly concerned that so much attention is being placed on the logistics for the elections, which are very important, but these elections must have concern for the political environment in which they take place. And that is where I am unclear, because under the CPA, the government is supposed to revise laws governing freedom for the press, freedom for assembly and laws to limit the power of national security services.

Well, I am hoping today that I am going to hear some information from you on if it is going to happen; if not, what we must do to ensure that we don't have elections that just are meaningless, because as I said, the history for Sudan and for the Sudanese people is being written right here before us. So thank you very much, Mr. Chairman.

Mr. PAYNE. Thank you very much. I would like to invite Congressman Wolf if he would like to come up and be a part of the panel. As you know, Congressman Wolf has probably had the longest history of working on this issue of anyone in the Congress and preceding my time. He has said no. But I would certainly keep the offer open if there is any question you would like to ask. You are certainly welcome.

And let me acknowledge also Ted Dagne, who has worked on this issue with Noelle LuSane, my staff director. But Mr. Dagne has been involved with the issue for quite some time and recently traveled to Juba with me 2 months ago—1 month ago. They told me it was 2 weeks ago. Time flies. And we had some very, very good meetings with government leaders in Juba and South Sudan, dealing with this whole issue of referendum elections. And so I would like to just acknowledge them.

Also I would like to say that I appreciate the work done by Congresswoman Woolsey and Congresswoman Lee on this issue. I had the privilege to visit both of their districts over the course of the last year or so to meet with their residents who were so interested in following their leadership. And so I would like to really commend both of you for the work you do back in your districts as well as here.

Well, let us turn to our principal witness on this first panel. We have Major General Scott Gration, U.S. Air Force, retired. Major General Scott Gration currently serves as the President's Special Envoy to Sudan. He spent his childhood years in the now-Democratic Republic of Congo and in Kenya.

General Gration graduated from Rutgers University in New Jersey with a B.S. in mechanical engineering before joining the United States Air Force, where he served from 1974 to 2006. During his time in the Air Force General Gration served a 2-year assignment with the Kenyan Air Force as an instructor. His staff positions included tours in the Pentagon and NATO and a White House fellowship. He was assistant deputy under secretary of the Air Force for international affairs.

General Gration was a national security adviser to the Obama Presidential campaign and served as a special assistant to the President. General Gration speaks Swahili. He has an M.A. from Georgetown University in national security studies and is very committed to this issue at this time.

Let me turn the floor over to our Special Envoy.

**STATEMENT OF MAJOR GENERAL SCOTT GRATION, USAF, RETIRED, UNITED STATES SPECIAL ENVOY TO SUDAN, U.S. DEPARTMENT OF STATE**

General GRATION. Thank you very much. Chairman Payne, members of the House Subcommittee on Africa and Global Health and distinguished guests, thank you very much for this opportunity to provide an update on the administration's efforts in Sudan.

Before I begin, let me add my heartfelt condolences to those who have been expressed by Chairman Payne this morning, to those who have suffered such a significant loss in the Mogadishu suicide attack. This event causes us all to think about how we must redouble our efforts to bring peace in all of Africa.

Mr. Chairman, I would like to start by expressing my deep appreciation for your longstanding commitment to resolving the challenges associated with Sudan. We know that you traveled recently to the region, and we are thankful for your dedicated efforts to improve the lives of the Sudanese people, define lasting solutions to promote peace. We note that your commitment is widely shared by members of this committee, and we are also extremely grateful to each member for the deep interest in our efforts and for your continued support.

As you know, the Secretary of State, Ambassador Rice and I presented the President's strategy on Sudan in October. This strategy uses an integrated and comprehensive approach and is focused on three major objectives.

The first goal is to definitively end the conflict in Darfur, the gross human rights abuses, the genocide.

The second is to implement the North-South Comprehensive Peace Agreement in a manner that results in a peaceful post-2011 Sudan, a united Sudan or two separate and viable states at peace with each other, at peace with their neighbors.

The third objective is to ensure that Sudan does not again become a safe haven for international terrorists. I will spend the next few minutes reviewing some of my recent activities and explaining how the administration's actions are helping to meet the goals outlined in the Sudan strategy. I will focus first on our efforts related to Darfur.

In my travels to the Darfur region over the past 5 years. I have witnessed firsthand the devastation and destruction that conflict has inflicted on the people of Darfur, particularly on the women and children. In keeping with the first objective of our strategy, the administration remains committed to saving lives, to fostering meaningful and lasting reconciliation, to ensuring a durable peace for all the people of Darfur. We continue to support the Doha peace process, as the AU-U.N. Mediator, Djibril Bassolé, seeks to negotiate an agreement that fully addresses the concerns of the Darfuri people.

To give these negotiations the best possible chance of success, we have been working to unite the fragmented arm movements in Darfur so they can speak at a negotiating table with one voice. As a result of our efforts, eight rebel factions have formed a coalition and are committed to even a wider unification.

In addition, we will continue to support and strengthen UNAMID. We will work with them and the Government of Sudan to improve local security conditions throughout Darfur and will strive to reduce tensions along Sudan's western border with Chad.

Finally, we are working with USAID and operational NGOs to improve the humanitarian situation in Darfur, to improve NGO access to populations in need. In my travels I have observed that while significant effort has been made to fill the gaps, to minimize the sufferings caused by the expulsion of 13 NGOs in March 2009, humanitarian agencies have only limited access to areas outside the major towns because of the continued widespread insecurity. We are working closely with the United Nations, Africa Union and Sudanese authorities to improve local security, to advance the rule of law, to help build a better life, a better future for the Darfuri people.

In keeping with the second objective of our strategy, we are working to fully implement the Comprehensive Peace Agreement. To that end, we are deeply engaged with the National Congress Party and with the Sudan People's Liberation Movement to resolve the remaining CPA challenges, to fully implement the agreements reached between the two parties.

I believe our involvement in this process has been crucial to helping the parties negotiate agreements on elections, on referenda for self-determination. Our involvement will also be critical in helping prepare for the post-CPA period. Issues such as citizenship, north-south border demarcation, resource-sharing must be resolved soon to facilitate a long-term stability along the border and in the region.

We are also focused on ensuring that the April 2010 elections are credible, that they further political transformation and the peace process. Voter registration will conclude next week, but far more work needs to be done in coordination with the Sudanese authorities and with our international partners to ensure that the will of the Sudanese citizens is clearly expressed and fully implemented.

We continue to be deeply concerned about the increase in inter-ethnic violence in the south and its devastating effect on local communities. We must all increase our efforts to mitigate these threats to security and stability, to create an environment for a peaceful referenda for a transition to the post-2011 period.

In keeping with the third objective in our strategy, the United States continues to work with the Sudanese authorities and international community to keep non-state actors who might threaten our interests and terrorist organizations from developing a foothold in Sudan. We will ensure that U.S. efforts in Sudan enhance our capacity to protect American lives and American interests around the globe.

Finally, as part of our U.S. strategy on Sudan, senior officials from the interagency will meet in early 2010 for the first in a series of quarterly interagency reviews designed to assess conditions on

the ground, to determine whether progress or backsliding has occurred, to agree on whether incentives or pressures are warranted.

The United States has a clear obligation and an interest to lead the international efforts for peace in Sudan. Failure to accomplish our objectives in Darfur between the north and the south and on the counterterrorism front could result in more suffering for the Sudanese people, further regional instability and in possible safe havens for international terrorists. We just can't afford to fail.

Together the United States and its partners are committed to creating an environment in which the parties themselves can bring peace to Sudan. We have no option but to succeed. And working together with all the parties, with our international partners, I believe we can succeed.

Mr. Chairman, members of the committee, distinguished guests, thank you again for your leadership and for your support. I look forward to answering your questions about the critical challenges that we all face in Sudan. Thank you.

[The prepared statement of General Gration follows:]

Testimony of Jonathan S. Gration, U.S. Special Envoy to Sudan  
U.S. House Committee on Foreign Affairs  
Subcommittee on Africa and Global Health

December 3, 2009

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Chairman Payne, Ranking Member Smith, Members of the House Subcommittee on Africa and Global Health, thank you for the opportunity to be here today to update you on our work in Sudan and on my activities as U.S. Special Envoy to Sudan.

Mr. Chairman, let me begin by acknowledging your longstanding commitment to these issues. We know that you have recently traveled to the region and we greatly appreciate your dedicated efforts to improve the lives of the Sudanese people and to find lasting solutions for peace. That interest is widely shared by the members of this committee. Thank you so very much for your support.

As you know, the Secretary of State, Ambassador Susan Rice, and I rolled out the President's Sudan strategy in October. The President's strategy outlined three major goals:

1. Seek a definitive end to conflict, gross human rights abuses, and genocide in Darfur.
2. Implement the North-South Comprehensive Peace Agreement (CPA) that results in a peaceful post-2011 Sudan that is unified, or an orderly path toward two separate and viable states at peace with each other.
3. Ensure that Sudan does not provide a safe haven for international terrorists.

The United States has a clear obligation and a clear interest to lead international efforts for peace in Sudan. Failure to accomplish these goals could bring about additional suffering, further regional instability or new safe-havens for international terrorists. The United States continues to work with the international community to reduce the ability of terrorists and non-state actors who threaten U.S. interests from developing a foothold in Sudan. Today I wanted to speak to you today about some of my recent activities and how the Administration's actions are helping to meet the goals laid out in the strategy.

Let me focus first on our efforts related to Darfur.

In my travels to Darfur over the past year, I have witnessed firsthand the devastation and destruction that six years of conflict have inflicted on the people of Darfur, particularly on women and children. Broken ceasefire agreements and peace accords, the fragmentation of armed movements, and the interference of regional actors have made a sustainable peace in Darfur elusive. All the while, millions of Darfuris continue to live in fear and insecurity, and remain unable to return to their villages and homes.

As our Sudan strategy makes clear, the Administration remains committed to saving lives and to ensuring an inclusive and durable peace for the people of Darfur. We continue to support the Doha Peace Process by collaborating with the African Union and United Nations joint chief mediator, Djibrill Bassolé, to reach an agreement that fully and adequately addresses the grievances of Darfuris. We continue to work closely with our international and regional allies to push forward a Darfur peace process. I meet frequently, for example, with envoys from the P-5 and European Union, to coordinate our efforts. Most recently, we met in Moscow and in Abuja to align our positions on the way forward. To give the Doha negotiations the best possible chances of success, we believe that the fragmented armed movements in Darfur must unite and speak at the negotiating table with one voice. We have been working diligently to bring this critical element of the peace process together. As a result of our efforts, eight rebel factions have formed a coalition and are committed to having a wider unification on the ground.

To ensure that the interests of the people of Darfur are adequately represented in the peace process, we support the AU-UN Mediator's efforts to establish a dialogue between the Government of Sudan and Darfuri civil society. We attended the recent conference in Doha which kicked off discussions with members of civil society, and we strongly believe that the people of Darfur should be a vocal part of the peace process.

Throughout the peace process, we will continue to support and strengthen the African Union-United Nations Mission in Darfur (UNAMID) by bolstering international resolve to hold actors that obstruct UNAMID's work accountable, by providing direct financial and logistical support for UNAMID's full deployment, and by planning contingencies for potential worsening of the crises in Darfur. Furthermore, an interagency peace and security team recently conducted an assessment of current U.S.

programs and initiatives in Sudan which will allow us to be more effective in addressing overall security concerns.

Darfur is not only troubled by internal security concerns, but by fighting along the border with Chad. We have also been working hard to encourage a normalization of relations between Chad and Sudan and have seen encouraging signs. On October 10<sup>th</sup>, a high-level Sudanese delegation was received by President Deby in Chad, and the two countries made a tentative agreement to implement a joint protocol initially signed in Khartoum in 2006. A Chadian delegation is also expected to go to Khartoum soon.

In November, on my most recent trip to Sudan, I traveled to West Darfur to work on improving security along Sudan's Western border. The governments of Sudan and Chad must follow this concrete step towards peaceful co-existence by ending their support for armed movements along their shared border, which continues to destabilize the security situation in Darfur and hurt the prospects for a sustainable peace in Darfur and the sub-region.

Finally, we are working with USAID and operational NGOs on the ground to improve the humanitarian situation and improve their access to populations in need. In my travels, I have observed that while significant effort has been made to fill gaps and avert crises caused by the expulsion of 13 NGOs in March 2009, humanitarian agencies continue to experience reduced access due to increased insecurity, targeted attacks against aid workers, and bureaucratic impediments.

The challenges in Darfur—in humanitarian assistance, security, and the peace process—are complex. That is why it is so important that we work together within our government and throughout the international community to complement international efforts and not have them compete. We tackle these complex challenges because we want to help build a better future for the Darfuri people.

As I outlined earlier, the new Sudan strategy recognizes that we must focus on a comprehensive approach to peace in Sudan. Central to this is support for full implementation of the Comprehensive Peace Agreement. To that end, we are currently working with the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) to address outstanding elements of the CPA. This is crucial in order for the April 2010 elections and January 2011 referenda to be held on schedule.

Because these dates are rapidly approaching, my two trips to Sudan this month have largely focused on pushing the CPA parties to reach agreement on several deadlocked issues. Two of the most pressing are the use of contested census results in the upcoming elections, and disagreements on procedures for the referendum on self-determination for Southern Sudan. We are deeply engaged with the parties through the trilateral process to resolve these outstanding issues.

We are deeply concerned about the increase of inter-ethnic violence in the South and its effects on local populations. To respond to the humanitarian needs and promote national stability, the Administration is working to support international organizations and NGOs that provide emergency assistance to newly displaced populations and facilitate community-based recovery and risk-reduction activities. These partners also operate in rural areas of Southern Sudan to assist recently-returned populations and to respond quickly if conflict breaks out in the months leading up to the April 2010 elections and the January 2011 referenda. As the elections and referenda approach, we will increase our efforts to help mitigate these threats and foster reconciliation efforts.

Additionally, my office continues to monitor and push for implementation of ten critical CPA issues agreed upon by the parties in August 2009. These include the demarcation of the North-South border, continued implementation of resource-sharing arrangements, and implementation of the July 2009 Permanent Court of Arbitration decision on Abyei. I recently visited the Abyei region to encourage progress on demarcating Abyei's boundaries and to meet with local communities to discuss progress and concerns. There I found two needs that continue to be unmet. First is the need for dissemination of accurate information about the arbitration decision, border demarcation, and other actions that affect the people in the area. The parties have agreed to these efforts and we are encouraging them to move forward on implementation. Second is the need to ensure development resources are available on both sides of the Abyei border, to both Dinka and Misseriya areas. Our partners and other international actors are working to improve conditions in this region and we hope to focus more attention on those areas.

We are also focused on ensuring that the April 2010 elections are credible and that they further the peace process. Voter registration will conclude next week, and while not without problems, we believe it is a positive step forward for the elections. According to unconfirmed reports, as of November 30

almost 12 million Sudanese have already registered to vote in all parts of the country, albeit with uneven registration rates across constituencies. Still, far more work needs to be done. We will be able to make a fuller assessment of the registration process after it concludes on December 7. Together with the international community, we will continue to work closely with the NEC and with the parties to encourage them to respond to and address concerns raised on all sides. We continue to coordinate our CPA implementation efforts with groups on the ground, like the Carter Center, and with various international partners.

Beyond the elections and referenda, the parties and the international community must begin preparations for the post-CPA period to encourage long-term stability in the region. The parties will need to negotiate equitable arrangements dealing with issues such as migratory movements and cross-border resources, regardless of whether the outcome is unity or separation. It is crucial to Sudanese and regional stability that these arrangements are made in advance of the referendum. We applaud the robust international efforts undertaken to educate the parties about post-CPA options, and we will be working over the next several months to help the parties transform this education process into concrete discussions that chart a path forward beyond the referendum.

To further our international coordination, we plan to organize a follow-on event to the June 2009 Forum for Supporters of the CPA held here in Washington that revitalized and focused international efforts around the CPA. Such a forum will likely be held in early 2010, and will focus both on remaining CPA implementation issues as well as necessary discussions about how the international community can help the parties manage the 2011 transition.

As Sudan's historic elections and referenda near, we will continue to work with the parties and international actors to ensure that peace and stability prevail. As part of the U.S. Strategy on Sudan, senior officials from the interagency will meet in early 2010 for the first in a series of quarterly interagency reviews designed to assess whether progress or backsliding has occurred and agree on whether incentives or pressures are warranted.

With regard to Darfur and to relations between North and South, we will not waste a minute in achieving our objectives for a peaceful and stable Sudan. We do not have the luxury of time. What we

do have is the determination of the United States and its partners to help bring peace to Sudan. Our country must fully utilize all of our instruments of statecraft in this endeavor.

Mr. Chairman, Ranking Member, and Members of the Committee, I would like to thank you for your leadership and support on efforts to end the suffering in Darfur and the rest of Sudan. Thank you for inviting me to speak to you today. I look forward to your questions about these most critical issues.

Mr. PAYNE. Well, let me thank you very much, General Gratton. Like I said, I appreciate the hard work that you are putting into this effort, and we appreciate your testimony.

Let me begin by asking a couple of questions. First of all, the administration's long-awaited Sudan policy is fully implemented and provides a framework to achieve a stable democracy and a lasting peace in Sudan. At the center of this strategy is a policy of engagement with necessary benchmarks and credible pressure to ensure accountability. However, implementation of the strategy will be critical in moving forward.

So my question basically is, What are the specific indicators of progress being used in the U.S. policy and what are the precise criteria to be used for evaluating them? We have heard that there are incentives and also disincentives, and so we really would like to know the way that there will be a criteria for the evaluation of them since this is the center of the strategy.

General GRATTON. Yes, you put your finger on it in that implementation is the key. Agreements without implementation are really no good, and so this policy seeks to ensure that agreements made between parties are implemented fully. We started with the CPA. When I took on this job, we had 12 areas where we had differences of agreements between the parties. We have been able to close on 10 of those 12. The remaining one is the census and therefore the election and then the referendum, and we seek to get an agreement on those two.

When we get agreements, we will turn those agreements into benchmarks. In other words, we have gone through all the decisions and all the agreements that we have been able to make and that are codified in the CPA and that we will continue to make in Darfur discussions that will come out of the Doha process, and we will turn these into objective statements: Who is doing it, what they are doing, when it needs to be done by and what are the performance standards. We have done that already with the CPA. It is in the form of a stoplight chart, but we are taking it to the next level.

In other words, when suspenses are missed, these are identified on a weekly basis to both parties and to interested parties on the outside. We will continue to do this. But let me just explain that this strategy will not succeed unless we have those benchmarks and we are able to objectively track them with changes of behavior and changes of condition on the ground, and that is what we are doing right now. We are trying to ensure that through the U.N. and through other mechanisms that we are able to see verifiable, unreversible changes on the ground.

We have a philosophy that is a little bit different than the Cold War when it was trust and verify. Ours is verify, then trust. We will take a look on the ground, we will verify the changes in behavior, verify the changes of condition. And then based on that, we will make a determination whether more pressures need to be applied or whether incentives need to be applied to encourage more of that kind of behavior if it is positive.

And so that is what the policy does. It takes all the agreements, turns them into objective statements. It looks for measures and monitoring ways that we can verify the changes on the ground,

whether positive or negative or even just standing still. And then we will work through the interagency process to ensure that senior leaders can make the determination whether we need to put pressures or incentives, and this will be done obviously as we do everything in consultation with Congress.

Mr. PAYNE. All right. My time has expired. Let me just ask one quick question: Is there any plan for the IDPs in Darfur and in Chad? Is the government discussing any plan of return? Because I have heard a lot of things, but no one has ever talked about when we will start to have people return home.

General GRATION. We have heard discussions about planning for return, but our position is, and it is a position that we have worked in conjunction with IOM, with U.N. agencies that are in the field that are working on a day-to-day basis with the 2.7 million people in IDP camps, we will only support a return when it is voluntary, when the conditions in the places that they want to return to, whether it be their homes or whether it be another location, that the conditions are stable and secure and safe enough for them to return in a sustainable way.

We also want to make sure that it is done where their human rights are protected and with dignity. And we also want to make sure that it is done in a compassionate way. As many people have to return to places where they lost their families, where they lost their crops, where they lost their cattle, where they had their houses burned down, there is going to be an emotional element, a psychological element that we have to consider. We want to make sure that as they go back that they can do it voluntarily and in conditions that will be sustainable and conditions that will allow them to live a life that is significantly better than they are living today.

Mr. PAYNE. Thank you very much. At this time, we will ask Senator Brownback for questions.

Senator BROWNBACK. Thank you very much. Mr. Chairman, again thank you for this extraordinary privilege to be here with you on this panel.

General Gration, thank you for joining us, and it is a tough job that you have, but I am terribly troubled by the situation. President Bashir, I guess I should ask you, he has participated in a genocide in Sudan, is that correct?

General GRATION. Yes, sir. He was the President of the country during the time that genocide took place and therefore, he would have participated.

Senator BROWNBACK. And so he has led the genocide in Darfur.

General GRATION. His government was responsible for that, and he was the leader of the government. Therefore, he would have led it.

Senator BROWNBACK. And President Bashir is an indicted war criminal by the ICC?

General GRATION. He is.

Senator BROWNBACK. Has the United States Government been negotiating, dealing or otherwise associating with any individual from Sudan who has been directly implicated in committing genocides or crimes against humanity?

General GRATION. Do I understand that you are asking, are we dealing with people that have been involved in the genocide or crimes against humanity?

Senator BROWNBAC. Have we been negotiating, dealing or otherwise associating with any individual from Sudan who has been directly implicated in committing genocide or crimes against humanity?

General GRATION. I have never met with President Bashir and we don't have plans to meet with President Bashir. There are people that we negotiate with that are part of the NCP that are part of that government. That is the only way that we have been able to reach agreements on the Comprehensive Peace Agreement. It is the only way we have been able to reach agreements on humanitarian assistance in Darfur. It is the only way we have been able to reach agreements on the Chad-Sudan border conflict, agreements in Doha. And we are going to have to continue to have engagement not for engagement's sake but to save lives and to move the ball forward in Sudan.

Senator BROWNBAC. Have any of those individuals been involved directly or indirectly in committing genocides or crimes against humanity?

General GRATION. I don't know that directly. I understand that some of the people were in the government at the time, especially between 2003 and 2005. But I have no direct knowledge of their direct involvement in it.

Senator BROWNBAC. They are in the leadership in the government in Sudan? Individuals you are negotiating with or dealing with?

General GRATION. I am negotiating with individuals that are in high-level positions in the Government of Sudan.

Senator BROWNBAC. You are dealing with a government that is conducting an ongoing genocide, is that correct?

General GRATION. I am dealing with the government.

Senator BROWNBAC. That is conducting an ongoing genocide in Sudan?

General GRATION. I am dealing with the government in an effort to end the conflict, in an effort to end gross human rights abuses.

Senator BROWNBAC. I understand the objective. I am asking you, are you dealing with a government that has conducted an ongoing genocide in Sudan?

General GRATION. I am dealing with, as I said, I am dealing with the government in Khartoum of Sudan.

Senator BROWNBAC. Which is currently conducting a genocide in Sudan, is that correct?

General GRATION. That is correct.

Senator BROWNBAC. Should we have dealt with Charles Taylor? He was an indicted war criminal.

General GRATION. I have not been involved with Charles Taylor.

Senator BROWNBAC. Should we have negotiated with Serbian leader Karadzic, the Butcher of Bosnia?

General GRATION. I have not been involved in that situation.

Senator BROWNBAC. Let me get to the specifics then in this, and this will be my last question. I think it is obvious what is taking place. Despite U.S. efforts to broker a settlement on key out-

standing issues regarding CPA implementation, the process appears deadlocked, due in no small part to the National Congress Party's obstructionism. At what point would the United States follow through on its promises to increase pressure on the NCP to make the necessary concessions to pass the Southern Sudan Referendum law, reform the National Security law, fully implement the Permanent Court of Arbitration's decision on Abyei and fully implement other elements of the CPA?

General GRATION. I have been involved in discussions and negotiations with the parties, and it is very clear that they both have positions that they are maintaining to both in the south and in the north. And we have been helping both sides come to a compromise on those issues so that they can get a solution on the elections, they can get a solution on the referendum, they can get a solution on public consultations and on the Abyei issue and in addition to the National Security law.

I anticipate that these will be resolved in the near future so we can move on and start working on the post-CPA issues of citizenship, the north-south border and resource-sharing, things like grazing rights, water rights and oil.

Senator BROWNBACK. Thank you, Chairman.

Mr. PAYNE. Thank you very much, Senator. Ms. Lee.

Ms. LEE. Thank you very much. General Gration, I am somewhat encouraged by your new policy that places a special emphasis on international cooperation and multilateral action in solving Sudan's pressing humanitarian and political issues. However, as it relates to genocide, I think those are the issues that are paramount and foremost in all of our minds. And I think we have talked a little bit about this in terms of China being one of the key players in that regard at least in Sudan and the leverage that China holds.

Given that China holds unparalleled really economic and political leverage over the Government of Sudan, I took the opportunity to write to President Obama in advance of his recent trip to China, encouraging him to secure the Chinese Government's full support and assistance in accomplishing the goals of this new Sudan policy. I haven't heard any reports, however, that indicated whether or not the issue was discussed on the President's visit.

Can you tell me whether or not and to what extent the United States has reached out to China for support in terms of our policy in Sudan and also in support of helping us in the genocide in Sudan? Also the League of Arab States in seeking their support in not only implementing the new policy but also ending the genocide.

I have had the opportunity like many members here to meet with President Mubarak. We met with the President of Algeria and other leaders and raised this concern in terms of them taking a hard stand against what is taking place in the Sudan. So far we have seen some results only in the humanitarian needs. I know that Egypt is helping in a tremendous way with the hospital and clinics and what-have-you. But I haven't seen the kind of response by China or any of the League of Arab States saying look, this genocide must end or else we are going to also impose sanctions and do some other things that may make it even more difficult for them to continue, for the Sudanese to continue with their disastrous efforts in killing people and in committing genocide.

General GRATION. Right. As you know, the centerpiece or one of the pieces of the strategy is the multilateral commitment and working with our international partners to achieve our collective goals in Sudan, and we have set up many different mechanisms to allow us to do that more efficiently.

The first is what we call the Envoy Six. It is the P-5 countries that have special envoys in addition to the European Union, who has a special envoy. We started meeting together. We said we were going to meet every 6 months. We are now meeting about every 2 months, and it is probably going to go down to every 1 month. As part of that group, Russia and China, along with France, the UK, the United States and the AU, we get together.

In terms of China specifically, Ambassador Li Chengwen is their representative or their envoy on Sudan issues. We go back to the time when I was flying with the Kenya Air Force and he was assigned to the embassy in Kenya. We have had a relationship that allows us to have frank and open conversations on issues.

The interesting thing is that China and the United States share the same objectives when it comes to security, when it comes to stability. They need security and stability to protect their investment of \$4.5 billion in the oil industry. We need the security and stability to protect the Sudanese people and the future of Sudan.

And so we have been able to work together in ways to help promote stability and security. We have been able to work together on humanitarian projects, to synchronize these better so that we don't build two roads next to each other a hundred miles but we put those end to end.

Ms. LEE. Sure. General Gration, let me just ask you before my time is up, though, have you communicated to the Chinese Government the fact that this cooperation that you are listing is wonderful, it should happen, it should have happened a long time ago, but if the carnage doesn't stop, if the genocide doesn't stop, have you communicated to the Chinese Government that they should join us in imposing sanctions and take a hard line against what is taking place as a next step?

General GRATION. We have. We have indeed. And the President did bring it up with President Hu. They discussed Sudan, they discussed areas of cooperation. I don't have all the details, but I do know that it was a centerpiece of the discussions in Beijing.

I have also traveled to Beijing and had discussions with the people over there, and we have made these points very clear. And while there are significant areas of strategic cooperation, there are areas where we differ on the tactical level, on arms and those kinds of things. And we are continuing to work through those issues. But as you know, these are bilateral issues, and we will continue to influence them as we can.

But I will tell you that the spirit of cooperation is significant, and we are doing the same thing with periphery states and Arab states. In addition to the Troika and the contact group, we have frequent meetings with the Arab League, with Tripoli, Libya, with Chad, Egypt, Ethiopia, EGAD countries. I am leaving possibly tomorrow to attend the ministerials with the EGAD countries. I will be going to Egypt and to Libya before Christmas holiday.

These things we continue to do because, like you, we know that this solution is not one that involves just America. It is one that involves the international community and the broad international community. Everybody has to be part of the solution to end the conflicts and to promote peace and development.

Mr. PAYNE. Thank you very much. Mr. Smith, our ranking member.

Mr. SMITH. Thank you very much, Mr. Chairman, and thanks for convening this very important hearing. I just want the record to show the only reason I was late, was because Sudan is one of the highest priorities for me, the head of the Central Authority for Brazil, which is the agency or entity that adjudicates Hague cases where children have been abducted, was in town. Yesterday we had a hearing on that, chaired very ably by Mr. Wolf on the Tom Lantos Human Rights Commission. And I have been working on that issue with David Goldman, a man we both know very well, from New Jersey, whose son, Sean, was kidnapped 5 years ago, over 5 years ago. We are hopefully coming to a positive conclusion soon.

But this is the person who is in charge of that government entity that adjudicates those cases, so what was a ½-hour meeting turned into 1½-hours. So I do apologize, General, for not being here for your opening, but that in no way reflects my deep and abiding concern for Sudan, having been to Mukjar and Kalma Camp myself, and having met with Bashir for the better part of almost 2 hours in a very real argument with that man, this is before he was indicted for war crimes. Sudan is at the top of my list, as it is the chairman's, in trying to bring some peace, reconciliation and justice.

Just as you may know, General, as ranking member, I have asked no less than four times for a classified briefing about the annex of the menu of incentives and disincentives that were announced as part of the new strategy on October 19. We asked on October 21, 22, 29 and November 4 and again on the 30th, so that would be five times, to have a classified briefing to weigh what it is that this new policy really entails.

As the Secretary of State pointed out, this is classified. But it seems to me the fact that the ranking member still can't get this information, I don't think our distinguished chairman has received it either, is very, very troubling, because like Mr. Brownback, like Mr. Wolf, like my colleagues on both sides of the aisle, this is not a passing concern. This is a deep and passionate concern for each of us. And we want to know what the strategy is, in a closed session or in a classified briefing here or downtown, we will do it anywhere, anytime.

So I reiterate that request. I really want to hear what is being contemplated here. So please honor that request as soon as possible, today, tomorrow, any day. Just name the day, I will be there and my colleagues will be there as well.

Likewise, we made multiple requests for detailed briefings on the reported arms transfers from the regime in Khartoum to militias in southern Sudan. We held a hearing that Mr. Payne will remember so well, where we heard about very troubling numbers of AK-47s and other weapons that are being deployed south, raising the specter of perhaps renewed hostilities that we need to get a better

handle on at least as policymakers. We don't know the numbers. So I reiterate that request as well.

Finally, I would ask unanimous consent that my statement be made a part of the record, I don't think it would be appropriate to go back and go through that.

Mr. PAYNE. Without objection.

Mr. SMITH. But I would join with my colleague, Ms. Lee, in—I was a signer of the letter that went down to the President before his trip to Beijing, and we have had hearings in this room time and again about, remember, we were calling it the genocide olympics. And in the run-up there was leverage that was not used with regards to China's singular role in the genocide first in southern Sudan where 2 million people were butchered and killed and the upwards of 450,000 or whatever the current number of atrocity is of dead in Darfur. And to the best of my knowledge, we saw nothing about that information being conveyed to Hu Jintao or anyone else during that Beijing visit—and maybe you can tell us and elaborate on whether or not the President raised that.

It seems to me that the arms supplier makes it all possible to wage genocide, if you want to stop it, you go to the source. It is not just in Khartoum where all of this is emanating. It is being aided and abetted by the Chinese Government.

And we have raised this, Mr. Payne and I, over and over again in every fora we could possibly think of and especially with the Chinese. Mr. Wolf and I were in Beijing right before the Olympics, and that was a major part of our dialogue with our Chinese interlocutors. But if it is not backed up by the President of the United States, it seems to me our thoughts ring a bit hollow.

And I would add on human rights in general, and I don't care if it is a Democrat or a Republican in the White House, human rights transcend all parties. They have no party. When you are being victimized, it doesn't matter if you are a Democrat or Republican in terms of who is advocating or not.

We had a hearing right before the President left about the horrific one-child-per-couple policy, and we had a lawyer, Jiang, who bravely testified at that hearing and another hearing about due process rights and about this crime against women called forced abortion. We asked the President on that case as well to raise the issue and to provide protection for the lawyers, the human rights defenders like Jiang who were arrested, were interrogated. We believe that now he is under very, very tight surveillance.

But it is part of a seamless lack of intervention. What happened on Darfur? Did the President raise the issue? And I mean robustly. Hopefully he did it in some way, hopefully he did it in a very profound way, because China can turn off the spigot of funds and monies that is enabling this terrible killing field.

General GRATION. Thank you. In terms of the classified briefing, I am available any time to do that. And I don't know of the "annex," but I do know that there are working papers that we used as we deliberated, as we came up with a menu of things that we could consider in tiers of options on the political, economic, military side, and I would be happy to share those with you.

Mr. SMITH. Well, I mentioned the annex. If I could interrupt.

General GRATION. But there is no annex.

Mr. SMITH. Well, the Secretary of State had said that.

General GRATION. Okay.

Mr. SMITH. She said they are part in fact of a classified annex to our strategy and we are now seeing the outline of today.

General GRATION. Well, I am telling you that I have never seen one.

Mr. SMITH. Okay.

General GRATION. The only thing I have seen is the classified working papers that are part of the NSC. But I would be happy to tell you anything that is in those documents.

Mr. SMITH. I appreciate that.

General GRATION. That is no problem at all.

Mr. SMITH. On the China?

General GRATION. On the China, I was not with the President on this trip. All I know is that the issue was raised, that the two Presidents had in-depth discussions on Sudan and on the issues surrounding Sudan. I don't know specifically about what was raised in terms of the moral issues and that kind of thing, but I can try to find out.

Mr. SMITH. Well, with respect, and asking the indulgence of the chairman, I read the joint statements that were made by President Obama and Hu Jintao. I read them very carefully. And my concern is, where was Darfur? Where was human rights in general other than an oblique mention buried in the body of the text? If you could get back with specifics about what was raised and in what manner, that would be very, very helpful, because private diplomacy can only go so far when there is a genocide occurring. I hope he did mention it, but I hope he mentioned it in a way that was really significant.

Mr. PAYNE. Thank you very much. Mr. Miller.

Mr. MILLER. Thank you. General, it should not be a great surprise that there are continuing disagreements about the preparations for the national election in April, about polling procedures, voter registration, but more broadly about whether there are going to be real elections.

Do you think the elections, the 2010 elections, are going to take place? Do you think that they are going to be credible, that they are going to be free, fair and transparent? What are we doing to make sure that happens? What are we doing to prepare for the very distinctly possible outcome of elections that are not credible, that are a fraud, that are a sham? What are we doing to make sure that those are not treated as legitimizing a genocidal government?

General GRATION. Yes. We believe that the spirit of the CPA, the letter of the CPA tells us and gives us our mandate to have elections in Sudan. This is part of the political transformation that we are seeking, that the CPA sought.

The first step was to get an election law that allowed us to proceed. We have been able to do the registration piece, and as you probably know, we are up to 60 percent, 7.4 million people overall in the north in Darfur, just under 50 percent, with 1.79 million people registered, and in the south we have achieved 60 percent, with 2.5 million people registered. That allows these Sudanese the

option of expressing their will in the election, and I think that is very important.

We have seen that while there have been irregularities and while there have been things that we don't like, we have seen that the government has been responsive in trying to help the situation get better. In the very beginning there were only 1,500 people that were registrars. There weren't enough books. When the international community pointed that out, they increased the number of registrars, increased the number of books, to help more people get registered.

And while it is not perfect, we have to remember that this is the first time in 24 years that they have had elections. We also have to remember that in the last election only 5 million people were registered as opposed to the numbers that we have already, 11.96 million people registered already for this election.

So yes, I think that there is an opportunity for us to work on political transformation through this election. There are a lot of things that have to continue, though. We have to get sorted out the census so we can get an agreement between the two parties about the legislature, because it is only by having the elections down to the legislative level that we can, number one, have a legislature that has been elected by the people as to one that has been appointed.

Number two, we have to make sure that all the other pieces that go into an election to help make it free and fair, that we help with instituting these processes. So it is not only the law, it is not only this registration piece, but it is voter education. It is making sure that there is security. It is making sure that there are all the administrative pieces of putting the ballots and getting them to the right places at the right time. And then there is the whole piece about tabulation and in a way that is clear.

And so what we want to do is work with the international community to have monitors at the right place. And the Carter Center has increased its people from 12 to 30 already for the registration, and we are working together with the international community to bring in more.

We are also working with the National Election Commission to ensure that they are bringing in their monitors and that this system is as free and as fair, as credible as we can get it. Why? Because it is part of the transformation process. But number two, we will start next year in July to start registering people—I shouldn't say we, but the Sudanese will in the south and in Abyei for the referendum, in the south for self-determination and in Abyei to decide whether they stay with the north or go with the south if the south chooses independence.

Many of these same procedures in terms of the law, in terms of the preparation, in terms of free, fair and credible, in terms of counting and security, are the same things that we are going through the processes now for, we are going to have to go through it again. And the worst thing that I can think of is at the end, in January 2011, we say to the people of southern Sudan this referenda wasn't free, it wasn't fair, it wasn't credible, therefore it is invalidated.

We need to do everything we can now and then to ensure the people of Sudan not only get to elect their leaders, not only get to elect their legislators, but the people in the south have an opportunity to express their will in a way that is free, fair and credible. We are working that process. This is a process.

And if you take a look at each of the post-conflict countries as they have tried to do elections, this has been tough. And when you don't have a history of legislative process, election process, as Sudan doesn't in that we have had a break since 1986 until now and we have had all the conflict and we are just coming together, this is a tough process.

But I have got to tell you the United States and the international community is committed to doing everything they can to ensure that the process will result in a situation where individuals can express their will and that their will is fully counted and implemented.

Mr. PAYNE. Thank you very much. We have a vote coming up. We have three members who have not asked questions. We will give each of them 4 minutes. That will take 12 minutes. That will give us plenty of time to get over to this 15-minute vote. So at this time, Dr. Boozman.

Mr. BOOZMAN. Thank you, Mr. Chairman. General Gration, what benchmarks is the administration using to measure the success of the new Sudan strategy? What are the incentives and disincentives? If you can't divulge them now, will you allow Congress access to the classified annex of the policy review?

General GRATION. Yes. I am happy to come over here any time at a time that is convenient for you all to discuss the working papers and the policy deliberations that we went through, recognizing that this is just a menu of options that are available to decision makers as we take a look at what we can do to pressure and what we can do to incentivize actions on the ground. As I explained earlier, we are looking at conditions changing on the ground. We are trying to do this in an objective way, and we will continue to work through this process so we have objective benchmarks that we can present.

The first meeting that we have planned is going to be shortly after the New Year where we will be able to present these conditions on the ground, that it will be up to policymakers in the executive branch, and we will also do this in consultations with Congress to make sure that we either increase pressures in those areas where there has been backsliding or no progress and incentivize in those areas where we made progress.

Mr. BOOZMAN. I am sorry, I don't mean to interrupt, but we have just got a second. You mentioned progress, and I guess what I would like to know is what specific progress that we have to show that the engagement policy is working. The situation on the ground in Darfur has not substantially changed since the administration took office. Insecurity in the south is rising and there is no sign of an imminent peace deal. What has the NCP given us?

General GRATION. I would take issue with all those. I think we have made a lot of changes. When I took over, there were 1.2 million people that faced a crisis because of 13 NGOs being thrown

out. We have been able to fix that. We made it through the rainy season without having those losses.

We have been having significant movement in terms of armed group unification. The Chad-Sudan border issue has gone from where we had rebel groups in N'Djamena, proxy people in Omdurman, we are now in a situation where Kamal Harazi is going over to N'Djamena, and we are expecting the Minister of Foreign Affairs, Faki, to come to the Sudan.

These are significant changes. If you just take a look at the numbers in June of this last year, and I recognize that they are low, there were 16 excess deaths. None of them were Fur people. It was Arab-on-Arab, plus two policemen and two others.

My point is that things are changing significantly, things are improving, but there is still an awful long ways to go. We have 2.7 million people living in abhorrent conditions. We have insecurity. We have gender-based violence. This has to change, but we are making progress.

Mr. BOOZMAN. Thank you, Mr. Chairman.

Mr. PAYNE. Thank you. Ms. Woolsey.

Ms. WOOLSEY. Thank you. General Gration, when the Sudanese Government unilaterally kicked the humanitarian NGOs out of the country, the situation disintegrated rapidly for the people in need. The situation was already dire for women and children. So what is the situation now regarding women and children, regarding health, regarding delivery of emergency food sources?

General GRATION. By working with the U.N., existing NGOs and by the Sudanese Government allowing four major new NGOs to return to Darfur, we have actually gotten up to the capacity we had before. That said, we are doing it with emergency conditions, we are doing it with stopgap measures. It is not sustainable. We are working on fixing that.

You are exactly correct in that there were gaps before the NGOs were pushed out; there are still those gaps. There are certain areas where we have not gotten up to speed, and these include the protection aspects and some of the aspects that you have talked about where we are really taking care of the women and the children.

But in terms of health, in terms of food, water and sanitation, we are meeting the basic needs. But you are exactly right; we need to push a lot harder to work on protection and some of these other issues.

Ms. WOOLSEY. Will that push depend upon the free, fair, credible elections, or can it happen as part of that?

General GRATION. It is happening right now, ma'am. We are working on an ongoing basis to try to fix this problem. And I would say it is unrelated to the election.

Ms. WOOLSEY. So regarding the election, I guess this is more of a rhetorical question: What if it doesn't turn out to be fair, free and credible? Where will the United States draw the line? Or will we compromise, thinking we have put in all the effort that we possibly could, did the best we could and tried but failed? I mean, will we accept a criminal government?

General GRATION. We are now working with our international partners on these very same issues. The envoys, the contact group, we are discussing what is going to be our approach because we are

going to have to be doing a lot of the funding. And the question is, When do you stop funding something that is not going to be working out? We are committed, though, to doing everything we can to ensure we put in these processes. And ma'am, it may not only be for this election, but it may be for subsequent elections.

And so what we are trying to do is put into place processes and procedures and a way of doing things now so people understand that they can vote, that they can make a change, that they can express their will through democratic means. And this political transformation is going to be a process. And it may not be something we can do between now and April, but it is certainly something that we have to try to do, and then it is something that we have to continue to build on through the referendum and through subsequent elections.

Ms. WOOLSEY. Thank you, Mr. Chairman. Thank you.

Mr. PAYNE. Thank you. Mr. Royce.

Mr. ROYCE. Thank you, Mr. Chairman. I am just going to quickly make the observation here that when you have a manufactured crisis and you run, as Bashir did, you run all the aid groups out and then you let a handful of them back in with a set of new conditions, as the group Enough did, what to do about Sudan now? They say they don't have access to large areas of Darfur anymore and those that do have access to vulnerable populations no longer publicize their assessments for fear of expulsion. So I just want to get that into the record in terms of the other side of this argument.

I wanted to make the point and come back to the fact that the Lord's Resistance Army is on the run. We have a commander who recently surrendered. In interviews he has noted that Joseph Kony has the intention to move his forces into Darfur to link up with the Sudan armed forces. He wants those armed forces to give him logistical support. In the past they have. I remember when they were patching up his soldiers in hospitals and sending them south and giving munitions to them. So the Islamist government in Sudan is really the last lifeline, as it has been the lifeline for years, but it is now the last lifeline for Kony.

Let us cut this off and end Kony's terror across Africa. I just ask you, how involved today is the Sudanese Government and how do you intend to bring pressure to get that lifeline cut off?

General GRATION. First of all, I would say that in terms of the NGOs moving around Darfur, I meet with them all the time, I just met with them last week in N'Djamena and Al Fashir, and it is really a security issue as opposed to a restriction issue. And if we could fix the security issue, which we are working on right now very hard to do at the local level with the Bandistri, with the Janjaweed autonomous with our militia groups, if we can get these things fixed, that will solve a lot of the NGO problems.

In terms of the LRA, we agree with you. There is no reason that Joseph Kony should be allowed to be wandering around and be alive and continuing the Lord's Resistance. It is abhorrent. I used to live in that area between Aba and Adi-Faraj, and the number of people that are being raped and houses being burned down and that kind of thing is unbelievable. And the fact that it is not an absolutely international outrage is disgusting to me.

That said, I have been working with the Sudanese Government in Khartoum, and I think that they would agree with you that Joseph Kony has to stop. We cannot find links, and it has been reported to me, and if you have the links that we can go in, I cannot find any links right now of the Sudanese Government to Joseph Kony. And if we can find them, obviously those will be things that we will put pressures in, but there is nothing that we can find right now.

Mr. ROYCE. I would just point out that his commander who surrendered says they were backing us in the past. So I don't know about the moment, but he is telling his troops if you get out of the encirclement, this is who you surrender to, this is who will work with you. I just bring it up.

I am the ranking member of the Terrorism Nonproliferation and Trade Subcommittee. We had a hearing 2 weeks ago in which one witness testified, and I am going to use his words here, "The Jihadist aim is to thwart the international community in Darfur and reignite a holy war in southern Sudan." I would ask if you share any concerns about the reputed ambitions of Khartoum. From my standpoint, I remember pretty vividly Khartoum's backing some years ago of Osama bin Laden, so I don't give the benefit of the doubt to Bashir. So give me your assessment, General, if you would on that.

General GRATION. Yes. Obviously we have our eyes wide open. We are looking for any indications that would lead us to believe that that is happening. Right now, though, our mandate is to save lives, to implement the CPA, to ensure that the conflict stops in Darfur and that we reset the picture on the CT front. We are trying to do that. And if we have indications that there is a jihadist movement that is disrupting the south, obviously we are going to apply a lot of pressure and speak out very forcefully against it. This cannot be tolerated, and we won't.

Mr. ROYCE. Thank you, Mr. Chairman. Thank you, General.

Mr. PAYNE. Thank you very much. Our ranking member will have 30 seconds to intervene.

Mr. SMITH. Thank you. General Gration, let me ask you, at our July 29 hearing, SPLM, Secretary General Pagan Amum, testified that it had been documented that the NCP had supplied 79,000 AK-47s to the civilian population in the south. The next day, at a Tom Lantos hearing, we heard that it was indeed 79,000 that had been distributed, but a total of 200,000 additional AK-47s had been ordered.

Do those numbers comport with our assessment and how many of those 200,000 have been distributed since the 79,000, if that number is accurate?

General GRATION. These are questions that I continue to ask UNMIS, and we are continuing to try to get our arms around this issue. There are reports of increased ammunitions. There are these reports of guns coming through. We have not found linkages to the Khartoum Government at this time.

Mr. PAYNE. Senator, we have about 1 minute more if you would like to make a concluding statement.

Senator BROWNBACK. Just that I hope we can work with the administration and stop this complete loss of moral authority if we

negotiate with a genocidal government. And I appreciate very much the chance here to work, but I more would appreciate the chance for the administration to reconsider what steps it has taken here. It is a massive step that I think undermines a great deal of our authority that we have had around the world in dealing with genocidal-type regimes or people that conduct war crimes. I really think I would hope you would reconsider that.

Mr. Chairman, thank you for allowing me to be here today.

Mr. PAYNE. Well, let me thank our witness. We have been in session now for, in our 12th month. That is one-half of a congressional term, and this has been frustrating, as you know, an issue that many of us feel very deeply about, very emotional about. And so we first of all appreciate you getting here. We would hope it would have been sooner than later, and that is where a lot of pent-up frustration is.

You can see this is an issue that is bipartisan and both Houses take very seriously. I know that the President and you take it very seriously. But when you are kept in the dark so to speak, you really don't know. And we knew you were working hard. It is just we didn't know what you were doing. Now we have gotten some light, now we can have some evaluation. As you can see, there is still a lot of skepticism and a lot of us that want to see Sudan come into the 21st century, and we don't see it yet.

But let me once again thank you for coming. We will adjourn, recess this hearing. There is no time left, but we will be back. There are four votes. We should be back in ½-half hour or less.

With that, I would like to thank our Special Envoy for coming. And this portion of the hearing is complete. Thank you.

The next three witnesses will be part of the official hearing, and our fourth and final witness, we will then turn the hearing into a briefing since, as you know, House Rules indicate that official hearing, you may not have officials of governments. However, they can brief the Congress. And so it is just a technicality. They will all remain at the desk and they will all be questioned at the completion of the testimony.

Our panel of witnesses here will begin with Dr. Randy Newcomb. Randy Newcomb is the president and CEO of Humanity United, one of the world's largest private donors in the field of international human rights. Dr. Newcomb leads the organization's long-term strategy to stop and prevent mass atrocities and modern-day slavery.

He is a regular speaker on international human rights issues and has appeared as an expert commentator in the media. Previously Dr. Newcomb was vice president of the Omidyar Network, a philanthropic investment firm. He was a fellow at the Center for Social Innovation at Stanford University and an international development fellow at the University of Bath in England. He holds a doctorate degree from the University of San Francisco, a master's degree in development and economics and cross-cultural studies at the University of Bath in England.

Our next witness is Mr. Enrico Carisch. Mr. Carisch, former coordinator for the United Nations Panel on Experts on Sudan. He has served on expert panels of the United Nations Security Council on Somalia, Liberia, DRCN and Sudan, where he has investigated

financial aspects of arms embargo violations, money laundering and natural resource diversions for conflict funding.

He has advised the Central Africa member states of the ICGLR in their effort to establish effective certification and control mechanisms for their precious and semiprecious metals and their timber resources. Prior to his work in Africa, Mr. Carisch worked as an investigative print and TV journalist.

Last but certainly no stranger and not least, we have Mr. John Prendergast. Mr. Prendergast is the co-founder of the Enough Project, an initiative here to end genocide and crimes against humanity.

During the Clinton administration, Mr. Prendergast was involved in a number of peace processes in Africa while he was director of African affairs for the National Security Council and special advisor at the Department of State. Mr. Prendergast has also worked for Members of Congress, the United Nations, human rights organizations and think tanks. He has authored eight books on Africa, including "Not on Our Watch," which he co-authored with actor Don Cheadle.

With NBA stars he co-founded the Darfur Dream Team Sister Schools Program, which connects schools in the United States with schools in the Darfurian refugee camps. Mr. Prendergast travels regularly to Africa. He is a visiting professor at the University of San Diego and the American University in Nairobi, and he has done extensive work and continues to do so throughout Africa.

We will begin with our next panelist, Dr. Newcomb.

**STATEMENT OF RANDY NEWCOMB, PH.D., PRESIDENT AND CHIEF EXECUTIVE OFFICER, HUMANITY UNITED**

Mr. NEWCOMB. Thank you, Chairman Payne, Ranking Member Smith, members of the committee for inviting me to testify at this critically important moment for the people of Sudan.

Before I begin my remarks, I wanted to ask that my full written statement be made a part of the record if you wouldn't mind.

Mr. PAYNE. Without objection.

Mr. NEWCOMB. I would also like to bring greetings, Mr. Chairman, from Pam Omidyar. You have met with her several times, and she is disappointed to not be with you today but was traveling and was not able to make it. But you have been an inspiration to her and to all of our philanthropic work, so thank you so much.

Mr. PAYNE. Thank you.

Mr. NEWCOMB. Let me first commend the committee for holding this hearing. As you know, Mr. Chairman, there has never been a more critical time in Sudan's history than the present while the parties in Sudan and those in the international community use the next 18 months may make the difference between a hard-won peace or a return to large-scale war.

Humanity United, the organization that I run, was founded in 2005 on a simple premise. More than just representing the challenge to peace and security, we believe that egregious forms of violence and injustice, including those taking place in Sudan, threaten the very foundation of our common humanity.

As a private philanthropic organization whose mission is to help in mass atrocities and modern-day slavery, our work on Sudan in-

cludes supporting advocacy efforts globally, providing grants to those working on to advance peace, as well as engaging in a range of other activities focused on conflict both inside and outside of Sudan.

But as requested by the committee, I will focus my remarks today specifically on how the United States can support conflict resolution in Sudan by working with marginalized communities in the country and concentrating on the issues that the various parties within Sudan need to be resolving now at this moment in time.

It is clear that the U.S. and international attention is focused on resolving the immediate issues. These issues are important, and yet settling them will address only some parts of the complex mosaic of center-periphery conflict in Sudan. Several high-risk flash points will still threaten a return to conflict. Time and energy should be devoted now to identifying such potential flash points and to promoting peace-building activities meant to reduce those local tensions which could trigger a wider conflict.

Essential to these discussions are the transitional areas of Southern Kordufan, Blue Nile and Abyei, the so-called three areas, regions along the north-south border that fought with the Sudan People's Liberation Army during the civil war. The U.S.-backed 2005 Comprehensive Peace Agreement contained separate protocols for these fragile and high-risk areas, including establishing a parallel referendum for Abyei and a popular consultation process for the states of Southern Kordufan and Blue Nile, both of which will remain in northern Sudan beyond 2011.

These processes are meant to allow local communities to express their views on the CPA and to enter into discussions with Khartoum on persisting grievances. While the popular consultations in Southern Kordufan and Blue Nile represent a potentially important step toward an inclusive governance arrangement, little has been done to prepare for the consultations thus far.

Abyei itself is a microcosm of the issues facing both north and south with regard to the 2011 referendum. Abyei, as you know, sits on large deposits of oil, includes traditional grazing areas for northern pastoralist communities and was the scene of the most serious post-CPA violence to date.

As you know, in May 2008, local tensions fueled by failure to implement the CPA led to violent clashes between government forces from the north and south, leading to widespread destruction and many deaths. I think the Abyei incident underscores the case with which a local conflict could trigger a broader war between north and south, collapsing the CPA altogether and with it any hope at all for peace.

Work with the local communities in Abyei to prevent precisely this kind of violence has lagged dangerously behind other efforts. As the country that drafted the Abyei Protocol, the United States has a special responsibility here to ensure that agreements for Abyei are not just upheld but that they are successful.

The need for local civil society engagement in a power is also dire in Darfur itself, as you know. As the member of the committee knows all too well, the terrible suffering in Darfur has led to displacement and fragmentation, with millions of Darfuris either in

refugee camps in Chad or displaced from their homes. Sudan today boasts more displaced persons than any nation on Earth.

Efforts to negotiate a Darfur peace deal have left critical local voices out of the process, making consensus among refugees and internally displaced persons outside of any part of that peace process. If we believe that we can achieve peace there, this can only be achieved if we help support and sustain the civil society actors that exist in Darfur and help give them a voice in this critical process.

Mr. Chairman, before I conclude, I do want to raise the critical importance of thinking today about the challenges of tomorrow. Working for peace in Sudan must also remain focused on the 2011 referendum. If the choice for southern independence—and I think everybody would agree that all indications suggest that it might lead toward independence—there are a number of issues that demand urgent attention. The risk of conflict I believe can be reduced. But in order for peace to prevail, international attention, coordination and diligence by the United States Government is needed on four pressing issues.

The first, cross-border oil revenue sharing. Southern oil revenue is currently split 50/50 between Khartoum and Juba. Should the south vote for secession, the bulk of the oil would remain in the south, but the pipeline to support Sudan, the only means for the north to get their oil to market, runs through the north. North-south cooperation in the oil sector will require international support, guarantees and capacity-building in the south.

Number two, cross-border population movements. As mentioned in my previous comments on Abyei, there are populations on both sides of the border whose livelihoods depend on continued cross-border access either for grazing herds or for trade. Early agreement on continued cross-border access will reduce the likelihood of tensions, local violence and manipulation by outside forces.

Number three, water rights. The White Nile flows through the south before meeting with the Blue Nile in Khartoum and flowing north to Egypt. Regional concerns about the implications of southern independence for the Nile River Treaty need to be addressed. Such discussions will also require robust international engagement to ensure that neighboring countries are confident in this outcome.

And number four, status of the southern populations in the north. I think one of the most worrying scenarios around the secession of the south is the status of southern populations in the north, estimated to be between 1.5–2 million people. Most were displaced during the decades-long civil war and would be forcefully displaced back to the south or maybe subjected to violence.

Mr. Chairman, Ranking Member Smith, members of the committee, these are complex and delicate issues. Yet we ignore these issues raised here at the peril of the Sudanese people and all those who care about the advancement of peace. Serious work must commence on these four issues right away. I urge each of you to push the administration to address these issues and to make sure that continued Congressional oversight is exercised as the 2011 referendum approaches.

Thank you again for allowing me to appear today, and I look forward to addressing your questions. Thank you.

[The prepared statement of Mr. Newcomb follows:]

Testimony by Randy Newcomb  
President and Chief Executive Officer of Humanity United  
Before the Subcommittee on Africa and Global Health  
Of the Committee on Foreign Affairs of the House of Representatives  
December 3, 2009

Thank you Chairman Payne, Ranking Member Smith, and members of the Subcommittee for inviting me to testify at this critically important moment for the people of Sudan. Before I begin my remarks, I ask that my full written statement be made a part of the record.

Let me first commend the Committee for holding this hearing. As you know, Mr. Chairman, there has never been a more critical time in Sudan's history than the present. How the parties in Sudan—and those in the international community—use the next 18 months may make the difference between a hard-won peace and a return to large-scale war. Those of us concerned about the Sudanese people who have suffered so much during the last two decades, including the millions of refugees and internally displaced persons who continue to languish, must redouble our efforts to help the parties resolve the multi-faceted conflicts in Sudan. I also want to express my appreciation for your invitation to a wide range of members from the Tom Lantos Human Rights Commission, including Representative McGovern and Representative Wolf, who have so often demonstrated their commitment to preventing further suffering and loss of life in this and other distressed regions of the world.

Humanity United was founded in 2005 on a simple premise: More than just representing a challenge to peace and security, we believe that egregious forms of violence and injustice—including those taking place in Sudan—threaten the very foundation of our common humanity. As a private philanthropic organization whose mission is to help end mass atrocities and modern-day slavery, our work on Sudan includes supporting advocacy efforts globally and providing grants to those working to advance peace, as well as engaging in a range of other activities focused on conflict prevention both inside and outside of Sudan.

As requested by the Committee, I will focus my remarks today specifically on how the United States can support conflict resolution in Sudan by working with marginalized communities in the country. I will also concentrate on the issues that the various parties within Sudan need to be resolving now in order to prevent conflict following the referendum on the independence of Southern Sudan that is scheduled to take place in 2011.

It is clear that U.S. and international attention is focused on resolving the immediate disagreements between the governments of North and South Sudan, as well as on facilitating dialogue between the central government in Khartoum and rebel groups in Darfur. At the same time, the issue of whether popular elections scheduled for 2010 can be free, fair, and credible is beginning to come to the fore. Concurrently,

many in the activist and non-governmental communities are considering exactly which benchmarks should be applied to help gauge the effectiveness of the newly announced U.S. policy on Sudan.

These immediate issues are important. And yet, settling them will address only some parts of the complex mosaic of center-periphery conflict in Sudan. Several high-risk flashpoints will still threaten a return to conflict. For instance, with the referendum on self-determination for the South just 13 months away and all signs pointing to a vote in favor of independence, the international community should be planning now for how to reduce the risk of negative fallout. Areas along the North-South border, which already serve as the static frontline between the northern and southern armies, could soon become an international border. Local skirmishes along that border could quickly escalate into a larger war. Time and energy should be devoted now to identifying such potential flashpoint areas and to promoting peace-building activities meant to reduce those local tensions which could trigger a wider conflict.

Central to this discussion are the transitional areas of Southern Kordofan, Blue Nile, and Abyei—the so-called “Three Areas,” regions along the North-South border that fought with the Sudan People’s Liberation Army (SPLA) during the civil war. The U.S.-backed 2005 Comprehensive Peace Agreement (CPA) contains separate protocols for these fragile and high-risk areas, including establishing a parallel referendum for Abyei and a popular consultation process for the states of Southern Kordofan and Blue Nile, both of which will remain in northern Sudan beyond 2011. These processes are meant to allow local communities to express their views on the CPA and to enter into discussions with Khartoum on persisting grievances. While the popular consultations in Southern Kordofan and Blue Nile represent a potentially important step toward an inclusive governance arrangement, not to mention addressing the long-standing issues in these areas, little has been done to prepare for the consultations thus far. They remain poorly understood by the citizens of Southern Kordofan and Blue Nile and may turn out to be wasted opportunities unless significant energy is devoted to making them a success.

The Sudanese can and should do better—and the United States can and should help. We believe that local conflict resolution training and other similar efforts can significantly reduce tensions in the Three Areas. The challenges are great, particularly in the volatile area of Abyei, which has received more international attention than Southern Kordofan or Blue Nile. Yet U.S. leadership is still urgently required to ensure that the Abyei referendum, which will determine whether Abyei joins an independent South Sudan or stays within the North, is held in a free and fair manner, consistent with the terms of the CPA.

Abyei itself is a microcosm of the issues facing both North and South with regard to the 2011 Southern independence referendum. Abyei sits on large deposits of oil, includes traditional grazing areas for northern pastoralist communities, and was the scene of the most serious post-CPA violence to date. In May 2008, local tensions

fueled by failure to implement the CPA led to violent clashes between government forces from the North and the South, leading to widespread destruction and many deaths. The incident underscores the ease with which a local conflict could trigger a broader war between North and South, collapsing the CPA altogether and with it any hope for peace.

Work with the local communities in Abyei to prevent precisely this kind of violence has lagged dangerously behind other efforts. This is dangerous not only in and of itself, but because forces outside Abyei may see local communities as pawns to be played in the chess match that will ultimately decide Sudan's fate. As the country that drafted the Abyei Protocol, the United States has a special responsibility here to ensure that agreements for Abyei are not just upheld, but that they are successful. This will require arrangements for continued oil revenue sharing between the North and South and guarantees for continued cross-border grazing rights for the northern pastoralist Misseriya community, when and if the South votes for independence. Efforts to renegotiate or redefine the CPA formula for the Abyei referendum should be resisted, as such obvious tactics will serve only to detour the path toward peace.

The need for local civil society engagement and empowerment are also dire in Darfur itself. As the members of the Committee know all too well, the terrible suffering in Darfur has led to displacement and fragmentation, with millions of Darfuris either in refugee camps in Chad or displaced from their homes. Sudan now boasts more displaced persons than any nation on Earth. Efforts to negotiate a Darfur peace deal have left critical local voices out of the process, making consensus among communities in Darfur nearly impossible to reach. Any final peace that returns refugees and internally displaced persons to their homes will require the agreement not only of the rebel groups and Khartoum, but also of the local communities inside Darfur. This can only be achieved if we help support and sustain the civil society actors that exist in Darfur and help give them a voice in this critical process.

The recent meeting of civil society players in Doha was an important and encouraging step toward making the peace process more inclusive and representative. We encourage the United States Government to increase its support for civil-society participation in the Darfur peace process.

Before turning to post-2011 referendum issues, I want to mention one final area that has been neglected, but that represents another potential powder keg: Eastern Sudan. Despite being a recent conflict area and struggling to implement the 2006 Eastern Sudan Peace Agreement, we were disappointed that Eastern Sudan went unmentioned in the Obama Administration's recent review of Sudan policy. We encourage increased attention to this and other conflict areas in the North. While Darfur and the CPA often steal the limelight, center-periphery conflict exists across Sudan and demands a comprehensive approach.

Mr. Chairman and members of the Committee, at the risk of over-extending my welcome, I do want to raise the critical importance of thinking today about the challenges of tomorrow. I have already referred to the multiple issues that demand more of our government's attention. However, in working for peace in Sudan we must also keep focused on the 2011 referendum on the secession of the South. If the choice is for southern independence—and all indications suggest that it will be—there are a number of issues that demand urgent attention today. Should they be overlooked, the referendum carries with it the risk of being perceived as a zero-sum game in which one side stands to win and the other stands to lose.

The good news is that there are solutions to each of the four pressing issues that are likely to arise from the separation of the South. The risk of conflict can be reduced. But in order for peace to prevail, international attention, coordination, and diligence is needed on these four pressing issues:

- 1) Cross-border oil revenue sharing. Southern oil revenue is currently split 50/50 between Khartoum and Juba. Should the South vote for secession, the bulk of the oil would remain in the South, but the pipeline to Port Sudan, the only means for the South to get their oil to market, runs through the North. Early agreement on a pipeline rental arrangement and on how to manage cross-border oil fields is needed. North-South cooperation in the oil sector has the capacity to promote peaceful relations between the two states, but will require international support, guarantees, and capacity-building in the South. Failure to achieve this agreement will contribute significantly to zero-sum perceptions.
- 2) Cross-border population movements. As mentioned in my previous comments on Abyei, there are populations on both sides of the border whose livelihoods depend on continued cross-border access, either for grazing herds or for trade. Early agreement on continued cross-border access will reduce the likelihood of tensions, local violence, and manipulation by outside forces.
- 3) Water rights. The White Nile flows through the South, before meeting with the Blue Nile at Khartoum and flowing north to Egypt. Regional concerns about the implications of southern independence for the Nile River Treaty need to be addressed. Early agreement can likely be achieved by subdividing Sudan's existing quota under the Nile River Treaty based on water needs. Such discussions will also require robust international engagement to ensure that neighboring countries are confident in the outcome.
- 4) Status of the southern population in the North. One of the most worrying scenarios around the secession of the South is the status of the southern population in the North, estimated to be between 1.5 and 2 million people. Most were displaced during the decades-long civil war and would be forcibly displaced back to the south or be subjected to violence. This type of violence

has been seen in other cases of state separation, but may be preventable in Sudan if a commitment by both Khartoum and Juba to protecting the rights of these populations is publicly reinforced ahead of the referendum.

Mr. Chairman, Ranking Member Smith, members of the Committee, these are complex and delicate issues. We realize they do not make the daily headlines. The more immediate North-South dialogue and the question of elections get the lion's share of attention and interest. This is understandably so. Yet we ignore the issues raised here at the peril of the Sudanese people—and all those who care about the advancement of peace.

Serious work must commence on these issues today. We have been encouraged that the Obama Administration appears to have an appetite for this type of engagement. And we encourage you to find ways to ensure that these important issues receive the attention they deserve. We urge each of you to push the Administration to address these issues and to make sure that continued Congressional oversight is exercised as the 2011 referendum approaches.

Thank you again for allowing me to appear before you today. I look forward to your questions.

Mr. PAYNE. Thank you very much. Mr. Carisch.

**STATEMENT OF MR. ENRICO CARISCH, FORMER COORDINATOR, UNITED NATIONS PANEL OF EXPERTS ON THE SUDAN**

Mr. CARISCH. Thank you, Mr. Chairman and members of the subcommittee. Thank you for the opportunity to address you today. I am particularly gratified by your continuing interest in Darfur, which is unfortunately not matched by much of the world even in places that talked of little else 2 or 3 years ago.

I want to bring you the perspective from the broader community, from the broader international community and the multilateral efforts in bringing peace and security to Darfur. And there I think it is important to notice that many member states of the U.N. Security Council that 4 or 5 years ago have advocated and helped to impose certain coercive measures on those who have responsibility for the violence in Darfur now seem to be backing away to continue to fight back against those who abuse the Darfurians.

Increasingly it looks like the poorly understood and under-enforced U.N. sanctions are being sold out in favor of mediation, whose success is at any rate far from ensured. And that is the core of my concern which brings me here.

I had the honor of serving as the coordinator of the most recent panel of experts on Sudan. For those who don't know, the U.N. has imposed an arms embargo in 2004. In 2005 it revisited the issue and expanded the embargo in order to affect all the parties belligerent and the government and the formulation used most. The embargo is for all the signatories of the N'Djamena Ceasefire Agreement. That is in place since 2005.

That same resolution, 1591, also created a Sanction Committee and with that the panel of experts, which acts essentially as the eyes and ears of the Security Council in Darfur and in the region.

Another important element of this resolution was that it provided a mandate to the panel to monitor compliance with the International Humanitarian Human Rights Law to report those who violate such laws, to report on those who impede the peace process, constitute a threat to stability in Darfur and the region and are responsible for military, offensive military overflights.

We have tried to fulfill all these obligations and duties in our most recent report, a summary of which I would like to have inserted into your report with your permission along with the full written testimony.

Mr. PAYNE. Without objection.

Mr. CARISCH. But I would like to just hit on the most important findings of the report that basically breaks down in eight areas or categories of abuses that we have found.

First, most of the armed actors in Darfur continue to violate the arms embargo. The Government of Sudan and the combatants of JEM, the Justice and Equality Movement, are the worst offenders.

Second, many of the arms and most of the ammunition we find in Darfur originates from China. We have attempted to cooperate with the Chinese Government and in some instances even with Chinese manufacturers of these arms in order to assist, to obtain their assistance in the tracing of these items to the actual violators

of the arms embargo. It is very critical that we get full cooperation. We have gotten far from satisfactory cooperation so far.

Without that cooperation, we will not be able to conclusively identify the embargo violators, and we will not be able to help with stopping the violence or the violations of the arms embargo.

Third, international humanitarian and human rights laws continue to be abused and not respected.

Fourth, too frequently, indiscriminate force, disproportionate and indiscriminate force is applied, which leads to massive killings, injuries and mass displacements of civilians. This past year we have seen that in several places. Misseriya was probably the most brutal one.

Fifth, the panel has made special efforts to listen to the half of the population that usually is never listened to, which are the women. Every one of the ones we interacted with told us that the biggest and greatest threat to them continues to be sexual and gender-based violence.

Sixth, almost all parties to the conflict continue to use child soldiers.

Seventh, Darfurians are still illegally and legally detained according to Sudanese law or arbitrary arrests are carried out by the National Intelligence and Security Services of the Sudan. The detainees are interrogated and subjected to torture and physical abuse, which includes but is not limited to severe beatings and hitting with hands, fists and boots as well as other objects, flogging with rubber hoses, burning with coal heaters and other electric instruments, forced swallowing of extremely hot water, sleep deprivation and being suspended by ropes in stretched positions. These findings are from our direct interactions with such victims. We have medical testimonies as well. After they were released finally, they obviously needed medical help.

Eighth, while the Government of Sudan has been claiming that the Janjaweed are disarmed, that of course again goes back to Resolution 1556 passed in 2004. We see no official accounting for that, and we have however in the context of the Misseriya battle found written evidence, battlefield orders that instruct an Arab tribe to participate, interact in the actions by the Sudanese Government forces.

The following acts by the Government of Sudan and others have not been met with possibly the necessary counteractions by the international community. The panel of experts had one of its members not be allowed into Sudan; visa was simply denied by the Sudanese Government. Once in Darfur, the panel had difficulties to travel to places it needs to go, for example, where the most egregious violence occurred. Of a total of 70 issues raised with the Government of Sudan in writing, 55 have been ignored.

There is a spin-off effect of the Government of Sudan's position. It affects very deeply the international community's deployment. U.N., the U.N. Peacekeeping Force, UNAMID, is in charge of our security. They denied us security clearance, preventing us for 2½ months to work in Sudan and Darfur, alleging security issues. But we then found out that there were other issues, pressure from the Government of Sudan, the true reasons.

We have also the fact that the group of the experts from the Human Rights Council was not extended in November 2007, and U.N. rapporteur of the human rights situation in Sudan, Ms. Sima Samar, that post was abolished on demand of the Sudanese Government and its political allies at the Human Rights Council.

A mandate was replaced with another function, a U.N. independent expert, who has a very narrow mandate that actually allows him only to focus on the human rights forum, which is a joint function, a joint operation by the government and UNAMID. And then of course we also see that UNAMID is not able to even maintain and protect its own national Darfurian employees, and we have testimonies of those being abused by the National Intelligence and Security Services.

The U.N. must accept responsibility for some of these problems. The government has overwhelmed the weakened management of UNAMID, and something must be done about this.

Back to the work of the panel. We have since its inception in 2005 submitted close to 100 recommendations, all designed to improve the U.N. sanctions. None of them in terms of the substantive proposals have been taken up by the Security Council.

For this particular mandate, we were deliberately coming up with only three very narrowly defined recommendations in order to provide something that is conducive to this very fractured Security Council, allowing it maybe to let these recommendations be adopted more easily.

The first recommendation basically encompasses a reporting obligation that we would like to see imposed on the Government of Sudan on essentially the steps that they are required to do anyway based on the resolutions that have been adopted years ago. One would be identifying exactly what they are doing in terms of disarming the Janjaweed. The other would be identifying when they want to move their own soldiers and troops into Darfur, which in effect they could if they only would obtain permission from the Sanction Committee. They have never done that.

Finally, we also want to see some kind of progress report in terms of preparations to secure the humanitarian situation in Darfur and in particular what they are doing to protect women, who suffer now much more since the eviction of the NGOs in March this year.

The second recommendation pertains to an idea that has been floating around that has been supported already by a Presidential statement of the Security Council in May as well as the regional forces. This is about the establishment of a Chad-Sudan joint border monitoring mechanism.

Finally, the third one, recommendation, we were trying to close the gap between the international community and globally operating companies, private sector members who knowingly or unknowingly end up being involved in the problems of Darfur. We need to develop due diligence standards that help them to understand when to make business and when not to do business with certain parties. We are not there. We need to develop a solution to this.

Finally, there is a confidential annex about which I cannot really talk to you here because it is a confidential annex. But anyway,

this brief description is that we are trying to list in there those individuals we feel are deserving of targeted sanctions. That is an asset freeze as well as a travel ban.

Now, in terms of the reaction in the Security Council; I think it is noteworthy that of course you always have opposition when you come in, particularly with a hard-hitting report. It is quite normal that people don't want to discuss recommendations and basically just would like the thing to go away.

What is new this time around, however, is that those states who used to be the original sponsors of the U.N. presence, particularly the arms embargo and other coercive measures, are not speaking up. At least that is the conclusion you have to take when you look at the public record. We have already the new resolution, 1591, that is basically the response to our report. It is literally the same as the one from a year ago, which was virtually the same as the one the year before.

The lack of adjustment to new emergencies and to the inability to stand on the principles previously decided and adopted is sending a very loud signal to the Darfurians. The Security Council and member states, including the United States, are not going to come to help. And I think there is a larger issue here.

Imposing sanctions only to fail to enforce them is destructive and counterproductive to the policy goals that motivated the sanctions in the first place. Making such empty threats endangers the lives of those who need protection and tends to escalate violence because the perpetrators feel emboldened by the very apparent paralysis of the international community. Failing to enforce sanctions also jeopardizes peacekeepers and other members of the international community who are deployed in the conflict area. It makes a mockery of everyone associated with sanctions, including the U.S. Government, whose firm leadership made those sanctions possible in the first place. And of course we contrast that with the leadership provided in 2004 and 2005.

We see of course also the need that maybe a policy adjustment has to be made and that it is good and helpful to have China now more actively participate in the dialogue, in the international dialogue. But I don't think that the fundamental principles that are at the bottom, at the heart of the sanctions can be just disregarded. Sanctions need to be supported by the international community, and then they can also be an integral part and an important part in fact of mediation. And I think that is an important element that should be considered in the U.S. policy toward Sudan.

If applied properly, U.N. sanctions we know can have a very, very beneficial effect. We have seen it in Angola. I have been involved in Liberia with the financial sanctions against the people around Charles Taylor and Charles Taylor himself. We have done it in the Congo. There is undeniably a positive effect if the sanctions are properly designed and then also properly enforced.

I think the same has come clear. There is a report from OFAC that explains how the sanctions that you are imposing unilaterally have a very good coercive effect.

Mr. Chairman, I hope that this testimony helps to maybe illuminate a little bit the role that the U.S. is now playing on the international scene. But I would like to bring this to specifics be-

cause I feel very much that the belligerents and the Government of Sudan should not be given an opportunity to play enforcement, sanction enforcement against mediation, and I think that we need to develop very concrete ideas how mediation can be supportive of sanctions.

And therefore, I propose that you consider four points that the U.S. Government could maybe insist on, for example, the full cooperation by the Government of Sudan with the sanction-monitoring efforts by the coming next panel, including of course a timely and immediate issuance of entry visas.

Secondly, that all the parties to the conflict, in particular the Government of Sudan, are pressed that they reply comprehensively and transparently to all the issues that are being raised by the panel.

Number three, that the Government of the United States is insisting with the Government of Sudan to provide safe access to all locations, that the panel must be able to inspect and provide unfettered access.

And the fourth proposition is that your government encourages and works much more closely with the Government of China to ensure that China too is becoming a full partner in the enforcement of sanctions.

By adhering to these benchmarks, the U.S. Government can begin to demonstrate that while the world may suffer from Darfur sanction fatigue, it will not surrender the Darfurians and the mediation process.

Thank you for your interest, Mr. Chairman, in this problem and the efforts of the Panel of Experts to provide hopefully in the future again useful information to you. Thanks.

[NOTE: The following submissions for the record by Mr. Carisch are not reprinted here but are available in committee records: U.N. Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan and Vol. 5, Issue 47, of The CPA Monitor. The CPA Monitor may also be accessed via the Web at <http://unmis.unmissions.org/Default.aspx?tabid=2213>.]

[The prepared statement of Mr. Carisch follows:]

Testimony before the  
House Committee on Foreign Affairs, Subcommittee on Africa and Global Health  
**Sudan: A review of the Administration's New Policy and a Situation Update**

12/3/2009

Enrico Carisch  
Former Coordinator of the UN Panel of Experts on Sudan  
Pursuant to UN Security Council Resolution 1841 (2008)

Mr. Chairman and Members of this Subcommittee:

Thank you for the opportunity to address you today. I am particularly gratified by your continuing interest in Darfur, which is, unfortunately, not matched by much of the world, even in places that talked of little else two or three years ago. While the world's attention may have grown tired of the Darfur story, those who wage war, who cause the destruction of lives and livelihoods of the Darfurians and who abuse the Darfurian women and girls continue to enjoy impunity. Many member states of the UN Security Council that four or five years ago imposed coercive measures on those responsible for the violence in Darfur now seem unwilling to fight back against those who let the abuses continue. Increasingly, it looks like poorly understood and under-enforced UN sanctions are being sold out in favor of mediation whose success is far from ensured.

I had the honor of coordinating the most recent Panel of Experts on Sudan. As you know, the United Nations Security Council imposed an arms embargo on Darfur in 2004, and expanded it via resolution 1591 in 2005. That resolution also created a UN Sanctions Committee on Sudan, charging it with overseeing the sanctions regime by, among other things, monitoring and enforcing its implementation by designating individuals to be subject to travel bans and asset freezes. The same resolution created the Panel of Experts to be the eyes and ears, on the ground in Sudan and in the region, of the Sanctions Committee.

The Darfur arms embargo does not apply to the entire territory of the Sudan, only to the three Darfur States. Unlike other monitoring teams mandated by the Security Council in Liberia, Cote d'Ivoire, the Democratic Republic of Congo, and Somalia, the Sudan Panel has also a robust mandate to monitor compliance with international humanitarian and human rights law—and to report those who violate such laws. The Panel is tasked with reporting on those who impede the peace process, constitute a threat to stability in Darfur and the region, and are responsible for offensive military overflights.

All of these obligations have been fulfilled by the most recent Panel, as well as by our predecessor Panels. Since January 2006, a total of six reports detailed technical evidence of massive violations of the arms embargo, and excruciating proof of abuses of the human rights of Darfurians and ongoing violations of international humanitarian laws.

I am very grateful to Chairman Payne and the members of this Subcommittee who allowed me to come here to talk to you about our findings and about the lack of implementation and enforcement of the UN sanctions. I would also appreciate it if I could submit for the record written information,

including the summary of the latest report of the UN Panel of Experts on the Sudan, made public on November 5, 2009. The whole report may be found here: <http://www.un.org/sc/committees/1591/reports.shtml>.

This recent report presents evidence of the following eight categories of abuses, among others:

**First**, most of the armed actors commit widespread violations of the arms embargo. The military, security and auxiliary forces of the Government of the Sudan and the combatants of the Justice and Equality Movement are the worst offenders. Our report has earned public condemnation by both the Government of Sudan and the Justice and Equality Movement. The Government of the Sudan called for the termination of the Panel's mandate.

**Second**, as in previous years, some arms and the majority of ammunition documented by the Panel in Darfur in violation of the arms embargo originate from Chinese manufacturers. To date, the Panel has received minimal cooperation in response to our requests to the Chinese authorities and from the specific manufacturers for information that might assist in the tracing of this materiel to the actual embargo violators. That is, while most of this embargoed materiel was manufactured in China, it may have been legally delivered to the territory of the Sudan not under embargo. It is therefore possible that the government or nationals of another country are responsible for transporting them into Darfur. Given the multiple Panel reports over the past years that documented military goods in Darfur of Chinese origin, it is unlikely that the Government of China is not aware of the high risk that this materiel might become part of UN arms embargo violations. Because of the spotty cooperation of the Chinese government and of Chinese corporations these arms embargo violations are much harder to stop, and for the Panel it is much more difficult to identify the actual embargo violators.

**Third**, international humanitarian and human rights laws that should protect Darfurians are still not respected; victims find no redress in the courts; nor are they given compensation; and perpetrators enjoy full impunity.

**Fourth**, in the fighting between the belligerents and the Government of the Sudan, too frequently disproportionate force is still used, resulting in indiscriminate killings, injuries and mass displacements of civilians.

**Fifth**, the Panel has made a special effort to interact with hundreds of Darfurian women and girls to assess their situation. Every one of these women told the Panel that the greatest threat to them continues to be sexual and gender-based violence. Every time Darfurian women pursue their livelihood activities outside their IDP camps they risk being raped or otherwise harassed.

**Sixth**, almost all armed parties to the conflict use child soldiers and none has demonstrated to the Panel that they have functioning mechanisms in place to prevent these abuses.

**Seventh**, Darfurians are still legally and illegally detained or arbitrarily arrested by the National Intelligence and Security Services of the Sudan. The detainees are interrogated and subjected to torture and physical abuse, which includes but is not limited to: severe beatings and hitting with hands, fists and boots as well as other objects, flogging with rubber hoses, burning with coil heaters and other electric instruments, forced swallowing of extremely hot water, sleep deprivation, and being suspending by ropes in stress positions.

**Eighth**, while the Government of the Sudan claims that all Janjaweed have been disarmed as required by Security Council resolution 1556, passed more than five years ago in 2004, no official accounting or reporting on this subject has ever been issued. The Panel has found strong evidence, including written battlefield orders, for the continued engagement of Arab tribes as auxiliary forces of the Sudanese military in Darfur.

Despite this long list of alarming evidence that the will of the international community is being ignored, the resolve to enforce this will is decreasing. This decreasing resolve is most visible in the

inadequate protection of the integrity of independent UN monitoring. During the most recent mandate, which ran from 11th December to October 15th 2009, the Government of the Sudan denied an entry visa to the arms expert of the Panel on the basis of completely fabricated reasons. That expert consequently resigned from the Panel. Once the Panel was able to work in Sudan we were denied access to the locations where the most vigorous fighting had taken place in the previous 12 months, even when the violence had ended weeks before our arrival. Of a total of 70 issues that the Panel raised in writing with the Government of the Sudan, 55 have not received a response.

Sadly, the Government of Sudan was not the only obstacle to the integrity and thoroughness of our work. For over two months, the UN delayed granting the Panel access to the Sudan and Darfur for alleged security reasons. Other independent monitoring mechanisms of the international community have been disbanded or have been reorganized as joint mechanisms with the Government of the Sudan. Under the intense pressure by the Government of Sudan the mandate of the Group of Experts from the Human Rights Council was not extended in November 2007. The mandate of the UN Rapporteur on the Human Rights situation in Sudan, Ms. Sima Samar, was abolished last summer on the demand of the Sudanese Government and its political allies at the Human Rights Council. Her mandate was replaced by the newly established mandate of the UN Independent Expert on the situation of human rights in Sudan. That mandate of Judge Mohamed Chande Othman of Tanzania, however, restricts him to focus only on the work of the Human Rights Forum – a joint operation between the Government of Sudan and UNAMID. UNAMID, in turn, is unable to protect even its own Darfurian employees from severe human rights violations committed by the National Intelligence and Security Services.

The UN must accept responsibility for some of these problems. It has insufficiently secured the integrity and independence of its operations, and has allowed the relentless pressure from the Government of the Sudan to overwhelm the weakened management of the UNAMID peacekeeping force and its other bodies who should operate for the benefit of the Darfurian population.

Since the inception of the Panel of Experts on the Sudan, there have been close to 100 recommendations designed to improve UN sanctions and to better achieve the overall objective of peace and security for Darfur. None of the substantive proposals have been taken up by the Security Council and only minor changes, such as adding one expert to the Panel, were implemented.

In the most recent report, you will find only a modest three recommendations – all of them tailored to facilitate consensus among the deeply fractured Security Council and to remind its members—including the United States—of its previously adopted resolutions and demands. Had this year's Panel not decided to take a course of pragmatism, our list would have been far longer. In other words, there is much to do to enforce the embargo and eliminate human rights abuses in Darfur, as nearly ninety pages of the report make clear. Our recommendations are merely the first and most practical steps.

**The first** recommendation asks that the Government of the Sudan be required to report regularly on:

- a. Movements of its troops and military materiel into and out of Darfur. Under paragraph 7 of resolution 1591 adopted in 2005, such movements must be approved in advance by the UN Sanction Committee. No request for approval has ever been submitted to the Sanctions Committee by the Government of the Sudan, which has previously stated that it will not abide by this demand.

b . The identity and size of the Janjaweed forces that must be disarmed, and to what degree that they have been successfully disarmed and reintegrated into the population of Darfur. This was required by paragraph 6 of UN resolution 1556 adopted in 2004.

c. Progress towards establishing provisions that will enhance the protection of all Darfurians located within the territory under the control of the Government of the Sudan.

d. Achievements in or possible requirements for improving the prevention of gender-based violence.

In its **second** recommendation, the Panel merely reiterates calls already made by the Security Council in its Presidential Statement of 8 May 2009 and by the Dakar Agreement between Chad and Sudan of 13 March 2008, for the establishment of a Chad-Sudan joint border monitoring mechanism.

**The third** and last recommendation reminds the Security Council that the private sector bears some responsibility for the crisis in Darfur. The Panel suggests that in conjunction with the UN Global Compact, improved due diligence guidelines and standards be developed in order to ensure that companies and their products or services will not, knowingly or not, end up supporting violators of UN arms embargos.

Finally, the Panel has also provided a confidential annex that contains recommendations of individuals who should be placed under targeted sanctions. These measures include asset freezes and travel restrictions. Because this document is confidential, I cannot discuss it here but refer you to your UN delegation for further information.

I can assure you that of all the Security Council monitoring mandates I have participated in—in Liberia, the Democratic Republic of the Congo, Somalia, and the Sudan—the fate of this most recent report and its recommendations is among the most extraordinary. It quite common that some members of the Committee are opposed to holding a full discussion of the findings presented in a report or that they block discussions of the recommendations made by a Panel. Such attempts to suppress a constructive dialogue are a reflection of the complexities of today's Sanctions Committee dynamics.

What is surprising is that none of the original sponsors of the Darfur resolutions, that after all are the basis for the mandate of the Panel of Experts, are fighting back against those who oppose a full discussion. What is surprising is no new and strengthened measures can be found in the new resolution 1891 (2009) that provides for a new mandate of the Panel. It is almost identical to the one adopted a year ago, and that one already resembled the previous mandate. The lack of adjustment to new emergencies and the inability to stand on the principles previously decided and adopted is sending a loud signal to the Darfurians: The Security Council and member states, including the United States, are not coming to help.

Imposing sanctions only to fail to enforce them is destructive and counterproductive to the policy goals that motivated the sanctions in the first place. Making such empty threats endangers the lives of those who need protection, and it tends to escalate violence because the perpetrators feel emboldened by the paralysis of the international community. Failing to enforce sanctions also jeopardizes peacekeepers and other members of the international community who are deployed in the conflict area. It simply makes a mockery of everyone associated with sanctions—including the U.S. government, whose firm leadership made those sanctions possible in the first place.

In contrast to that leadership of 2004 and 2005, the United States appears to have now joined the group of influential states who sit by quietly and do nothing to ensure that sanctions work to protect Darfurians.

On the other hand it is encouraging that the US Government is seeking dialogue with the international community. It is important that General Scott Gration is working with other leaders of the international community towards shared objectives. It is important that China is an active partner in this dialogue and that we have an opportunity to listen to its leaders' thoughts and objectives for Darfur. But all these good intentions and adjustments to the new global realities of the multilateral world should not hinder the US from leading in support of basic human rights and humanitarian principles. These principles—as well as evidence that they are being violated and the need to take action against those violations—should be the subject of discussion every time General Gration talks with international counterparts about their shared objectives.

If the US does not speak out on behalf of the millions of Darfurians who still suffer in IDP and refugee camps, nobody will. If the US does not insist on effective protection of the women and girls of Darfur, the Government of the Sudan will continue to neglect this important responsibility as it already does with the children who are forced to serve as soldiers. The US must press the effective enforcement of UN sanctions to put pressure on the officials of the Government of Sudan, the leaders of JEM, SLA and of other regional rebel and militia groups into changing their behavior. Indeed, sanctions that are enforced will support, not undermine, the mediation that is the focus of US policy in Sudan.

If applied properly, UN sanctions are the international community's most powerful tool for maintaining and restoring international peace and security short of the use of force. Any effective conflict resolution strategy must include disincentives as well as incentives. Experience has shown that individual targeted sanctions (such as an assets freeze and travel ban) have a restraining effect on perpetrators. A congressionally mandated report by the US Treasury Department's Office of Foreign Assets Control, published in January 2009, reported that US sanctions on Sudan—which include targeted sanctions—have indeed been effective.

This report concludes that U.S. sanctions against Sudan have applied constructive pressure that has affected key Sudanese officials' decision-making calculi. This pressure, along with other sources of pressure exerted by the U.S. government, has served to advance the primary goals of U.S. policy toward Sudan.

(OFAC, "Report to Congress January 2009: Effectiveness of U.S. Economic Sanctions with Respect to Sudan," [http://www.treas.gov/offices/enforcement/ofac/programs/sudan/sudan\\_report\\_030509.pdf](http://www.treas.gov/offices/enforcement/ofac/programs/sudan/sudan_report_030509.pdf).)

Over the course of more than four years of the UN sanctions on the Sudan, only four persons have been designated for targeted sanctions and none of the measures applied against them were ever enforced. This paucity of enforcement is typical of UN sanctions in general. It has a number of causes, chief among them insufficient political will among the various actors. This lack of will is attributable to competing political and economic agendas among the most powerful states; widespread misperceptions about the nature and purposes of sanctions, in particular a lack of appreciation of its valuable role as a negotiation and bargaining tool; lack of integration of sanctions with other conflict resolution measures; lack of a unified UN sanctions policy; and inadequate cooperation among various UN bodies. In addition, there is a disproportionate concern among many states and other actors regarding the due process rights of alleged perpetrators. This concern is legitimate, but should not displace the concern for the security and well-being of populations whom sanctions are designed to protect.

I hope that the preceding testimony has offered a number of specific ways in which US and international policy can better ensure that promises are kept, human rights abuses do not go unaddressed, and the people of Darfur do not continue to slide off the world's radar screen. It is

important that the belligerents and the government of Sudan are not given an opportunity to play the sanction enforcement mechanism against the mediation teams. To accomplish that sanctions and mediation must work in tandem to bring an end to the conflicts in Darfur. The following specific actions should be taken by the US Government before it extends further incentives to the signatories and non-signatories of the Darfur Peace Agreement:

- 1) Insist on full cooperation by the Government of Sudan with the sanction monitoring mechanism, including the issuance of visas without delays, to the next Panel of Experts.
- 2) Insist that all parties to the conflict, in particular the Government of the Sudan, reply comprehensively and transparently to the requests for information made by the Panel during its recent mandate.
- 3) Insist that all parties to the conflict, in particular the Government of the Sudan, provide safe access to all the locations that the Panel must inspect as part of its monitoring activities. These should include locations where fighting has taken place as well as locations where Darfurians are detained.
- 4) Encourage the Government of China and others that are critical to the successful implementation of the arms embargo in Sudan to cooperate actively in all aspects of the Sanction Committee and the Panel of Experts.

By adhering to these benchmarks the US Government can begin to demonstrate that while the world may suffer from Darfur-sanction fatigue, it will not surrender the Darfurians in the mediation processes.

Thank you for your interest in this ongoing problem and the efforts of the Panel of Experts to provide useful evidence and recommendations. I look forward to your questions.

Mr. PAYNE. Thank you very much for your very comprehensive report, and we appreciate the work that you have done on the Panel of Experts.

Mr. Prendergast.

**STATEMENT OF MR. JOHN PRENDERGAST, CO-FOUNDER,  
ENOUGH PROJECT**

Mr. PRENDERGAST. Thank you, Chairman Payne. And I would like to add my voice to the chorus this morning of praise for you and Congressman Smith, particularly for being such extraordinary upstanders for peace and human rights in the world's forgotten places and for the world's forgotten issues.

This moment in Sudan's history requires utter clarity. It is crucial I think that we admit particularly after this morning that the existing strategy of the United States and the broader international community to end the genocide in Darfur and prevent all-out war in Sudan is failing. And it is time to alter our course and our policy in bold and specific ways in order to avert what could be the deadliest conflagration in Sudan's war torn postcolonial history.

As we all know, two of the pillars, two of the principal pillars of the CPA are the elections and the referendum. But it is critical to note that the CPA also calls clearly for conditions that must exist for the holding of a credible election, including, as has been articulated this morning, a new security law to reduce the kind of harassment and intimidation of opposition, media access and freedom of assembly for opposition parties and then of course unrestricted access for the international observation.

Not one of these preconditions has been met to date. I think we have to stand up and particularly this subcommittee has to stand up and say that the emperor is as naked as he ever was in the last

20 years of this rule of this ruling party and blow the whistle now on this deadly charade. Why? Well, I think the risks of ignoring the prerequisites that are called for in the CPA for holding an election and the risks of holding a noncredible election are enormous.

Why? Noncredible elections are going to do the following things. They are going to fuel violence and divisions throughout the country but particularly in the south. And from my time living in southern Sudan in the 1990s and your frequent visits, as you well know, that was the deadliest time in Sudan's history because the ruling party in Khartoum was able to divide and destroy the south. It was able to rip the south to pieces using these strategies of pulling opposition figures and arming them and having them attack and create intercommunal conflict.

The second thing that noncredible elections will do is to undermine the fundamental aim of the CPA, which is a transformation, a democratic transformation of the country. You don't start a process out of transforming a country with a nonfree and a nonfair election. That sets the trend in the opposite direction.

The third thing a noncredible election will do is to disenfranchise millions of Darfuris and fuel further violence there in Darfur as the contest erupts and the divisions that occur will be used by the National Congress Party and others who want to undermine stability and peace in Darfur, to further the instability.

The fourth thing a noncredible election will do is to provide false legitimacy to an indicted war criminal and to the party that he represents. And that is the last thing we need to be doing.

And that rolls right into the fifth thing, which is let us not waste tens of millions, I think the number is \$96 million, of U.S. taxpayers' money underwriting a noncredible election that is going to legitimize that war criminal.

So what is the bottom line on this then? Until the parties agree to conditions that are in the CPA that will allow a credible election, I think the United States and the broader international community, but the United States has to lead it, we need to suspend all of our electoral assistance, the tens of millions of our taxpayers' dollars that are being spent on this thing. And the noncredible elections simply shouldn't be funded.

We need to live by the principle. Noncredible elections shouldn't be financed by the United States taxpayers. And the parties, I think we should encourage them to agree to delay these elections until the CPA-mandated conditions for free and fair elections, for democratic transformation exist, because we can't be party to recognizing the results of any election that doesn't meet basic standards. We have done it too many times around Africa, and this furthers problems and deepens problems rather than resolves them.

However, we have to equally vigorously continue to press for those conditions for free and fair elections and press for the conditions, the necessary preconditions for holding the referendum on time. If we don't hold that referendum, if the referendum is not held on time in January 2011, that is probably the most certain trigger for a return to full-scale national war.

Now, to be clear, we are not demanding a postponement of the election per se. But what we are doing here, and there is a reason for it, is pushing for the conditions for a free and fair election as

spelled out by the CPA, in other words, total adherence to the CPA, not selective adherence to the CPA.

If the international community lets then the National Congress Party just gloss over the provisions that would create a fair election without any consequences, this will demonstrate—and this is the crucial point—this will demonstrate once again that we, the international community, lack the will to enforce the basic elements of the CPA. And what does that do? That signals to the CPA that it can wriggle out of further CPA requirements going down the road, which further imperils the fragile peace that exists today in the south.

So that is why we are calling for the full implementation of the CPA. And we think rushing toward elections, which are 5 months away, without the proper conditions in place will end badly, particularly for the people of the south and the people of Darfur. And it will further embolden—this is the punchline—it will further embolden the National Congress Party to undermine the next major CPA process, which is the referendum. So we have to hold the line here. It is not a future benchmark we are looking at, it is a present one.

But there is an even more important point from our perspective at the Enough Project. There is a reason Sudan is facing this 10-minutes-til-midnight, make-or-break scenario that we are facing today.

Until now—and this is for me the most important point the advocacy community can make—because there has been no cost for non-implementation of key parts of the CPA, because there has been no cost for the commission of genocide, because there has been no cost for the commission of another genocide in the south, which wasn't called a genocide for 20 years, the parties, but particularly the National Congress Party, continue to trample on any agreement that is signed because there is no consequence for nonimplementation. It is very obvious and basic human nature.

So it is time, and this is why the Congress is so crucial, it is time for President Obama to decide to implement his own administration's benchmark-based policy, because flouting the establishment of conditions for a credible election and the referendum, that should trigger immediate consequences now. The U.S. should work within the United Nations Security Council and outside of it because a lot of things are simply not going to be able to move, as we all know, because of the membership there, and we should work to build that coalition of countries that are willing to introduce some of these consequences.

Sometimes we will have to go it alone, but let us at least do the diplomatic work to build the coalition to try to go multilaterally on some of these things and impose these consequences as soon as possible on the National Congress Party for its obstruction of basic conditions for peace. And the consequences, everyone always says oh, we already tried pressure. This is what General Gration has said a number of times publicly: We have tried pressure, it doesn't work.

We haven't. We haven't tried credible pressures. And we list a few here, and they are incredibly important, valuable points that Mr. Carisch has raised in the Panel of Experts report about the ef-

fectiveness of sanctions when they are actually implemented and the ineffect of sanctions when you pass them, but then you don't implement them and don't execute them.

So first and foremost, we need to ratchet up and actually impose some of the targeted sanctions on the people listed in that confidential annex and do it in a sequential way so people can see the tidal wave is coming at their head, so they can see you are working up through the chain of command on the basis of empirical evidence that these people are either obstructing implementation of agreements or are actually responsible for grave human rights abuses.

So we can do those multilateral sanctions, the travel bans and asset freezes. They are scarlet letters. There are political impacts for economic measures.

Secondly, we can deny multilateral debt relief. The Sudanese Government is on a mission right now. They want debt relief. They have got a serious economic problem even though they are making money hand over fist from the oil, going into private accounts. So publicly the coffers are bare. They need multilateral debt relief. We need to be in every forum they are in asking for debt relief saying sorry, not today.

Third, we can be pushing for enforcement of this arms embargo that has been talked about. And I will just refer you back to the previous testimony.

And then fourth, we can provide as the United States now that the conclusion of the process, the interagency process of examining what the Obama administration's policy should be toward the International Criminal Court is finished, we ought to be providing more robust support for the ICC investigations and indictments for ongoing atrocities.

And all that word game, wordsmithing that was going on there about whether genocide is occurring or not in Darfur obscures the fact just because 16 or 18 people according to General Gration died in Darfur in whatever month he was referring to, let us count the number—but we can't because we have no access—let us count the number of women who have been raped, let us count the number of children who are malnourished directly as a result of policies that are aimed at destroying in whole or in part a particular group of people. Call it genocide or don't call it genocide, it doesn't just mean gas chambers or village-burning. Genocide has many different forms. Let us look at that.

Now these consequences in this confidential annex that General Gration says doesn't exist, which concerns me greatly, these are the instruments if we are to believe Secretary Clinton and Ambassador Rice in their elaboration of this confidential annex, these are the consequences and the instruments that I think can help prevent an all-out war in Sudan.

In conclusion then, in your opening statement, Mr. Chairman, you made a very important point about engagement. When we are talking about increasing consequences, we are not talking about cutting off negotiations engagement. You have to engage to get your priorities advanced. But you use the consequences to back up and give leverage to the engagement.

And we think, not to leave Darfur out of the equation here, we think it is time for a real diplomatic surge in Darfur. Let us not

forget Darfur as we become obsessed with our efforts to try to prevent a return of the north-south war. And we think a surge, a diplomatic surge by the United States and its allies on Darfur should include the immediate drafting of a proposal, a peace proposal, that addresses the root cause in Sudan and put that draft down and start the debate and the dialogue between the Darfurians and amongst the broader Sudanese public about what the basic elements of a peace agreement will look like in Darfur.

After 6 years of this nightmare for the people of Darfur, we have yet to have seen one document laid down by the United States and the broader international community that addresses the core issues, the core issues that every Darfuri knows, lives and breathes. It is a stunning failure of international diplomacy.

There is nothing preventing us from going to Bassolé, the United Nations African Union representative, working with him to put the draft together. How many consultations more does one need to say these are the basic issues, put those positions down and get people negotiating over an actual text? That will move the ball forward.

Thanks very much for having me, Mr. Chairman and Ranking Member Smith.

[The prepared statement of Mr. Prendergast follows:]

**Testimony by John Prendergast**  
**Co-Founder of the Enough Project at the Center for American Progress**  
**Subcommittee on Africa and Global Health**  
**Committee on Foreign Affairs of the House of Representatives**  
**December 3, 2009**

Thank you, Mr. Chairman, Ranking Member Smith and members of this Subcommittee for the opportunity to share my thoughts on the dire situation right now in Sudan. I salute this Subcommittee for paying such close and consistent attention to this crisis and its tireless dedication to the people of Sudan.

The existing strategy of the United States and the broader international community to prevent all-out war in Sudan is failing. It is time to alter course in bold and specific ways in order to avert what could be the deadliest conflagration in Sudan's war-torn post-colonial history.

Two of the pillars of the Comprehensive Peace Agreement (CPA) are the elections and referendum. But the CPA clearly calls for conditions that must exist for the holding of a credible election, including a new security law to reduce harassment of opposition figures, media access and freedom of assembly for opposition parties, and unrestricted access for international observation teams. Not one of these preconditions has been met to date.

The risks of ignoring the prerequisites and holding a non-credible election are enormous. Non-credible elections will:

- Fuel violence and divisions, particularly in the South;
- Undermine the CPA's aim of democratically transforming the country;
- Disenfranchise millions of Darfuris and further fuel violence there;
- Provide false legitimacy to an indicted war criminal, Omer al-Bashir, and to his ruling National Congress Party (NCP);
- Waste tens of millions of American taxpayers' dollars.

**Until the parties agree to conditions that will allow a credible election, the United States and broader international community should suspend all electoral assistance. Non-credible elections should not be financed and legitimized by American taxpayers. The parties should agree to delay the election until these CPA-mandated conditions exist, because the U.S. and international community should not recognize any election that does not meet basic standards. However, efforts should continue to put in place the conditions for the January 2011 referendum, including the passage of the referendum law by the National Assembly before it adjourns. Not holding the referendum on time is the most certain trigger for all-out war.**

To be clear, the Enough Project is not demanding a postponement of the elections per se. We are pushing for the conditions for a free and fair election as spelled out in the CPA. If the international community lets the NCP just gloss over the provisions that would create

a fair election, this will demonstrate once again the lack of international will to enforce crucial CPA components, and will signal to the NCP that it can wriggle out of further CPA requirements, thus further imperiling the fragile peace in the South. We are calling for full implementation of the CPA, and rushing toward elections without the proper conditions in place will end badly for all involved, and further embolden the NCP to undermine the next major CPA process: the referendum.

There is a reason Sudan is facing this ten minutes til midnight make-or-break scenario. Until now, because there has been no cost for not implementing key parts of the CPA, the parties – particularly the NCP – continue to trample the agreement. **It is time for President Obama to decide to implement his administration's own benchmark-based policy. Flouting the establishment of conditions for a credible election and referendum should trigger immediate consequences. The U.S. should work within and outside the UN Security Council to develop a coalition of countries willing to impose consequences on the NCP for its obstruction of basic conditions for peace. Consequences should include ratcheting up targeted multilateral sanctions, enforcement of the arms embargo, denial of debt relief, and greater support for further International Criminal Court investigations and indictments. Similar consequences should await senior SPLM officials and Darfur rebel leaders if they are found to be undermining peace as well.**

There is a path to peace for the parties in Sudan. The United States has a major role to play. But to contribute to peace, the U.S. needs to stand for peace with principle, and back principle with real leverage in the form of credible multilateral consequences in support of genuine democratic processes and verifiable commitment to peace.

#### **What to Do Now**

One month after the release of the Obama administration's Sudan policy, the situation has further deteriorated. Violence against civilians continues unabated in Darfur and in southern Sudan while the ruling National Congress Party, or NCP, continues to act in bad faith and undermine lasting peace in Sudan.

At the core of the administration's new Sudan policy is a set of confidential benchmarks that the United States will use to evaluate progress toward peace. If the Obama administration is serious about this strategy, it is clear that the NCP's actions right now should immediately trigger an escalating set of multilateral consequences. The United States must firmly respond now by forging a coalition of nations willing to put in place and enforce meaningful consequences for those individuals who are obstructing peace in Sudan, no matter what party to which they belong. This, I believe, is the only thing that can prevent a full-scale war in Sudan with catastrophic human consequences.

#### **Peace on the Rocks**

There are four key areas where the NCP's tried and true use of endless delays, bad faith negotiations, and skillful manipulation of tensions to divide and destroy, demand a

determined and coordinated international response. Such a response is unimaginable without U.S. leadership.

### **1) Black-out in Darfur**

A recent report from the United Nations group of experts on Darfur was clear: the NCP is the party most responsible for continued violence on the ground and continues to obstruct U.N. peacekeepers and restrict humanitarian access. Although the Obama administration continues to call what is occurring in Darfur genocide, the reality is we don't really know. And we don't know because the NCP has effectively stifled independent outlets for assessment, analysis, and publication of what is happening presently in Darfur.

In Darfur, a large humanitarian gap has not been filled since Sudanese President Omar al-Bashir kicked out relief organizations in March of this year. For the last 8 months, humanitarians have not had access to large areas of Darfur and those who can reach vulnerable populations no longer publicize their assessments for fear of expulsion. Victims of sexual violence, in particular, have suffered from the complete lack of humanitarian support and monitoring. We no longer have independent means to assess the level and scope of rape as a war weapon, a critical instrument of genocide. Recently, the NCP announced that it would return or relocate all internally displaced persons by early 2010, compromising the basic rights of those who have already fled once from violence and war. The thought of three million people forced to abandon life-saving humanitarian assistance should be ringing loud alarm bells here in Washington and in capitals around the world.

### **2) No conditions for free and fair elections**

Elections are set to take place in April 2010, but they will not be free or fair under current conditions. The ruling party continues to block efforts to pass legal reforms, including one that would take away the state's power to arbitrarily detain and arrest citizens. The registration process threatens to disenfranchise millions. And the possibility of widespread election violence as the polls approach looms large and has not been sufficiently addressed. Flawed elections will undermine broader stability in Sudan and further confuse the process leading to the referendum.

### **3) Undermining the referendum**

South Sudan's self-determination referendum, the cornerstone of the peace agreement, is at risk. Legislation governing the referendum process must pass before the Sudan National Assembly goes to recess, on December 17, and does not reconvene until after the April elections. Otherwise, preparations for this important vote cannot begin. Thus far, the NCP has effectively driven the disputes over the referendum law, thrown up obstacles and unreasonable demands, and skillfully manipulated the process so that a compromise is not met.

### **4) Increased violence in the South**

Intercommunal violence has erupted in South Sudan, killing over 2,000 people and displacing about 250,000 Sudanese from their homes. The arms used by Southern militias have been traced to the stockpiles of North Sudan's army. The violence is taking place in the same areas where the NCP destabilized the South during the civil war. The ruling party certainly has motives for promoting Southern violence at this critical juncture.

### **Policy Implications**

The Obama administration's policy, as presented by Secretary Clinton, Ambassador Rice, and General Gration last month, is a strategy for diplomatic engagement with all sides to the conflict that is supported by a balanced set of pressures and incentives. The key element of leverage was a confidential annex that outlined unnamed incentives as rewards for progress, and pressures as penalties for undermining the prospects for peace. Much of the policy review's contents remained opaque. Not only were the penalties and incentives included in a confidential annex, so were the benchmarks against which they would be utilized.

Having the sticks and carrots in a confidential document has pros and cons. On the one hand, the mystery involved leaves the parties guessing as to what the United States is prepared to do. It may be that the perception and fear of what is unknown far outweighs the reality of the contents of the document. But the parties will have to put the Obama administration to the test to find that out. On the other hand, the unwillingness to clearly articulate the penalties could be seen as a potential sign of weakness by some Sudanese actors. Further, keeping the contents confidential leaves key stakeholders in Sudan completely unclear on what benchmarks the United States might be using in making its assessments as to the application of the proposed incentives and pressures.

### **The Way Forward**

What is clear though, is that the current situation in Sudan represents a series of unmet benchmarks that should have already triggered the consequences promised in the administration's new policy. Without a firm response from the international community, led by the United States, full-scale nationwide war is inevitable.

**The United States must organize and lead a multilateral diplomatic surge in Sudan aimed at negotiating and consolidating national peace. Such a diplomatic surge would include immediately drafting a framework peace deal for the parties in Darfur based on the extensive civil society consultations to represent the core grievances of the people there. American stewardship of a multilateral process involving all the key countries with leverage is critical to a credible peace effort. The surge would also involve the reconstruction of the troika that helped negotiate the CPA, and should also include China, Egypt, and other countries with serious economic and security interests in preventing a return to war.**

**Robust diplomatic engagement with all sides should be backed by the creation and application—immediately—of multilateral pressures and clear consequences. If the**

**U.N. Security Council is unable to act because of Chinese and Russian opposition, then the United States should forge a coalition of countries willing to unilaterally apply certain measures commensurate with the threat posed to peace in Sudan. Many such diplomatic levers that can be utilized include enforcement of existing sanctions (including multilateral asset freezes and travel bans against individuals named by the U.N. group of experts and sanctions committee), support to the International Criminal Court, and denial of debt relief.**

Ultimately, the objective of the diplomatic surge, a suspension of electoral assistance, and the pressures that provide leverage for it is the achievement of a sustainable national peace. This will happen only if the NCP no longer holds absolute authority in the country, but rather shares it with other parties and constituencies and eventually allows fully free and fair elections to determine the future leadership of Sudan. In the meantime, averting a return to full-scale nationwide war is the pressing priority, and the actions of the United States will have more to do with success or failure than any other single variable.

Mr. PAYNE. Thank you. Thank you very much. This ends the hearing phase, and we will now move into the briefing.

[Whereupon, the subcommittee proceeded to an off-record briefing.]

Mr. PAYNE. Let me thank you very much. Let me thank all of you. We have another series of votes. I wonder if the ranking member wanted to make any concluding remarks. I intend to come back for a few minutes to ask several questions if the panel will indulge. We have three votes, three to four votes. They are 5-minute votes each. Normally it should be 20 minutes for the duration of the votes. So at that time, we will—

Mr. SMITH. Mr. Chairman, I have several questions that I will reduce to just a few.

Mr. PAYNE. Okay.

Mr. SMITH. But I hope our panelists, I know they hopefully will understand.

Mr. PAYNE. Okay, great. Well, we will recess. We will probably readjourn at about 2 o'clock. We have to be out of this room at 2:30 anyway, so we will be evicted if we are not finished. The meeting stands in recess.

[Recess.]

Mr. PAYNE. Thank you once again for your patience, and we apologize for the interruptions, but that is a day on Capitol Hill.

At this time, reconvene, and we will have a few questions for the panel.

John Prendergast, you recommended a delay and suspension of U.S. assistance for the 2010 agreement. I certainly completely agree that the CPA must be fully implemented, but I have always had a problem with the delaying of elections or referendums, because sometimes the delay, then you have another delay, and many times we have a difficulty really biting the bullet and moving forward.

So I wonder how we can address both issues. That is, can the conditions that you mentioned be met in time to delay elections and hold a referendum in 2011? I know they are two separate issues; the election is coming up next year, the referendum coming

up in 2011. We know that the month of November was the month for registration. Like I said, I was there 2 weeks ago. Registration started late; there was a concern.

However, once the process began, there was more excitement about registering. I went to sites, went to a training site, I went to an actual registration site. And I understand that registration has increased. Of course I think that the 1 month of November was not long enough, and I do believe that registration has been extended. So why don't you give me further clarification on your statement.

Mr. PRENDERGAST. Thanks for asking for the clarification, Congressman Payne. Ultimately, at the end of the day, any delay will have to be a result of the agreement of the parties. So I wanted to reinforce that we are not calling for a delay or a postponement; we are calling on the parties to consider, particularly of course the SPLM as the party that has been more forward-leaning in the negotiations, to consider what their options are going forward in the negotiations with respect to the holding of the election on time.

What I guess we are getting at as outsiders is we don't want to provide international validation to the process. We know if it is not a free and fair election that we won't recognize it, we won't provide a validation of the results. We shouldn't along that same line provide validation to the process by providing all kinds of resources and support to it if the preexisting conditions, the various laws and conditions of freedom of assembly and others, and the security laws are not in place to allow for a free and fair election.

So in other words, they can have the election; let us just not underwrite it and support and go through the charade of supporting what is going to be an unfree and an unfair election. I guess that is the distinction we are making. And stay on time and stay on track for the referendum.

The referendum doesn't have the kind of wiggle room that the elections have. The referendum has to occur in January 2011. I think it is the ultimate trigger for a return to war. Everyone's focus has to be, that cares about southern Sudan and cares about the transitional areas and cares about the country, has to focus on making sure that referendum occurs in January 2011.

So the elections, it is more important to have a free and fair, a credible election, than it is to have just any old election. So that is why we are saying at least suspend the assistance. It is up to the parties whether they are going to delay or not delay, postpone or not postpone, but at least the international community doesn't have to be perceived to be supporting an electoral process in which the very conditions in which that electoral process is being conducted are designed to create a noncredible result.

Mr. PAYNE. Mr. Carisch, do you have any feelings on the election and the referendum? You have spent a lot of time with your panel of experts.

Mr. CARISCH. Thanks, Mr. Chairman, for asking. I generally would like to refrain from commenting on territories that I didn't have responsibility to monitor, but maybe I can add something to the general issue.

Up to the very late, the last days when we still were in Sudan, we would quite frequently ask the Darfurians and the government

in Khartoum, What are you doing to ensure that fair elections are being held in Darfur, that the Darfurians are able to fully participate? And one of the things I wanted to know is, are you translating all the material into Masalitfur and Sagaba? A lot of people don't speak Arabic in Darfur. I have not found anybody who could affirm this, that they actually are doing an effort. Sorry I can't add more to this.

Mr. PAYNE. No problem. Dr. Newcomb?

Mr. NEWCOMB. It is an interesting question, and it is one that we have struggled with. And it is from a different perspective. Since we are a philanthropy, we have been approached by many of the NGOs and private sector groups that are looking to monitor. And we have taken the position that until the international community signals sort of thresholds and benchmarks that would ensure legitimacy within the election that we can't move capital in that direction. And the capital remains locked up because the ways in which that capital could be used to actually legitimize a faulty election would be a tragedy.

And so our position has been to not move capital toward elections until somebody begins to signal what those thresholds will be.

Mr. PAYNE. And also a follow-on, since you are involved in assisting in the funding and election observers, I am just wondering what your feeling is on the countries that—and then I might ask the others of you to comment if you would like. As you know, the government of the National Congress Party identified certain areas or countries or areas of countries where ex-Sudanese living abroad can vote.

Now, as we know, there were just two sites in the U.S. I think, one in Canada, Egypt, a couple of Gulf countries. But countries around, close to Sudan, were all excluded. And I just wonder whether that has been brought to your organization's attention, and do you have any comment on that?

Mr. NEWCOMB. In fact, it has. And a part of our work has been around working among Sudanese diaspora globally and have funded quite a bit of work to help organize and support. And this is a message that we are hearing from a number of these civil society gatherings is that it is a highly selective identification of who is able to participate in a vote outside, among the members of the diaspora.

Mr. PRENDERGAST. You can take right here, Congressman Payne, in the United States where thousands and thousands of southern Sudanese here living here in the United States can't register because they don't have either a valid passport or a birth certificate.

I mean, what I fear and many fear is that if these elections go forward without any alteration of the existing terms of reference that hundreds of thousands of Sudanese in the diaspora around the world and millions inside Sudan, particularly in Darfur, are going to be disenfranchised by this process. And these are just part and parcel of the way the National Congress Party does business again. And if they are not challenged at each and every one of these junctures with consequences for these kinds of obstructions, then does anyone in this room really think there is going to be a referendum in January 2011? They are going to allow it?

If they see that they can get away with these smaller things, these little nickel-and-dime things, one after the other, when it is time for the dollar store cash-in, they are going to be like no, I am sorry, can't have it. There is this problem or that problem or whatever other issue undermines the process.

We have got to stand up now to each one of these things and ensure that the administration imposes the consequences that the Secretary and the President said that they were going to impose if certain benchmarks are met. I think these are the kind of things we should be saying, hey, some of your benchmarks are being met. And when you get that confidential briefing, if you ever get it, you know, you are going to find that it is inescapable. There are all these issues that have already passed time, where there should have been international pressure that the United States leads to make sure that there is some movement on the part of the NCP.

And it is not just a vilification of the NCP. If it is the Darfur parties, rebel groups that are the problem, then you have got to hit them with consequences. If it is SPLM, hit them with consequences. But right now, the preponderance of obstruction, the preponderance of warmongering is coming from the usual source that it has over the last 20 years, which is the ruling party.

Mr. PAYNE. Just say, for example, all things worked well. Elections were held fair and free, the referendum was held fair and free, and the south decided to secede. Have there been any, have you had any discussion, or have you heard from any of our U.S. officials? And then if, in fact, the National Congress Party refuses to respect the outcome, have you heard anything from U.S. officials about any kind of mechanisms to enforce the referendum? Use your mike, your mike is off.

Mr. PRENDERGAST. I appreciate that. This is the essence of the policy review that occurred over the last 9 months, and I think was the essence of the debate.

General Graton very publicly—I mean, this was an unusually public internal policy debate, because he was so public in his position, which was we ought to provide an incentive-laden strategy that gets the National Congress Party to change its behavior. Others inside the administration, who we all know who they are, fought the other way for much more pressures and consequence-based strategy.

But the end of the day, what they came out with and what they announced is well, we will give rewards for better behavior, and consequences for negative ones. The enchilada, the big enchilada at the end of the January 2011 is whether the NCP allows a referendum, and then respects its result. And one assumes, but none of us know, because there isn't transparency around the policy, that there would be significant and serious consequences for non-respect or for not respecting the results of that referendum, if all of the things happen that you outlined, Congressman Payne, happen.

And that is where I really think in terms of, for our role as advocates and your role as oversight of the executive branch, we need to know, even if it is not publicized, that there are significant and serious consequences now for nonimplementation of things that need to be done now, and much more serious ratcheting up of the

consequences in January 2011 if the National Congress Party either obstructs the referendum or doesn't respect its result.

Mr. PAYNE. Thank you very much. Just finally I note, Mr. Carisch, you have to leave. But let me just ask one question regarding your panel of experts.

The latest report of the U.N. Panel of Experts on Sudan mentioned sexual and gender-based violence as one of the critical issues facing Darfur women and children. What assessment have you made of the provision of sexual and gender-based violence services? What specific steps should the U.S. be taking to ensure their restoration? And by what benchmark should we measure the progress of the gender-based and sexual violence services?

Mr. CARISCH. Thank you. Well, the expulsion of the NGOs in March has contributed a great deal of diffusing and obscuring this subject. We know that a substantial amount of the organizations that were involved, and now are no longer there, had an important role in addressing these problems, and did so with some success.

I think that the principal problem that we are facing now, expressed in all of these various things that we have been looking at, the forms of abuses and problems that you are looking at in Darfur comes to the forefront even more prominently in the gender and sexual-based violence issue, that we have no longer a solid, good reporting mechanism, or a monitoring mechanism.

We are getting incredibly frivolous statements from the Government of Sudan to prove that they have overcome the issues; that they have been able, with a few additional, a few new NGOs that they let in, and some of their own resources that they put into place, that they have overcome these problems.

I was in Salingee myself, and talking to the staffs of the various medical facilities that used to be there, and now it is just national staff there. And they told me well, yes, we had actually some doctors that were sent from Khartoum. They were here a few weeks, and they didn't get paid. And they didn't like the fact that this wasn't really that secure. So they packed up and went home.

And that is now the balance of this whole situation in Salingee, which is a relatively large area. It has four IDP camps, with tens of thousands of people. They have now far less medical care facilities, doctors, et cetera, and absolutely no attention any more to the whole issues pertaining to the women.

So not only we know just from the anecdotal and empirical knowledge that we were able to gather, which is by no means a systematic overview, that the situation has gotten significantly worse. But worse than that is that we don't have a mechanism to exactly determine what needs to be done.

Mr. PAYNE. Well, thank you. Thank you very much. I yield to the ranking member.

Mr. SMITH. Thank you very much, Mr. Chairman. And I want to thank all four of our very distinguished presenters for the work that you have done, and for sharing your valuable insights with the subcommittee.

I have a number of questions, but I will narrow it to just a few, given the lateness of the hour. Let me start, first of all, with Mr. Prendergast. I mean, your testimony couldn't be more clear, that the CPA preconditions have not been met. And you go through

them. And you know, from my work with the OSCE, the Organization for Security and Cooperation in Europe, for years—I have been on that since my second term in 1983—a free and fair election isn't just the day of the balloting; it is the access to the media, the harassment or worse of opposition figures, all the points that you point out that the CPA covers that appear to be falling by the wayside.

And then I read, you know, juxtapose the testimony from General Gration, and he spends one paragraph on the elections. And he says, "We are also focused on ensuring the April 2010 elections are credible," and he talks about voter registration very briefly. But he makes it sound like everything is just moving along without much concern.

And I find that very disturbing. And you might want to comment on that.

And the second thing—maybe I will lay all my questions out again in the interest of time—the idea of having confidential benchmarks, you know, wittingly or unwittingly, could very quickly lead to no action, subterfuge, and all kinds of other nasty outcomes. Because where is the accountability? I can't even get a secret, what do you call it, I can't think of the word. I can't even be apprised of the—

Mr. PRENDERGAST. A briefing?

Mr. SMITH. A briefing. Can't even get it. And I was told I would get it today, so I will work on getting that.

But it seems to me you want these kinds of benchmarks in neon lights, rather than somewhere in an annex somewhere in the table. Because that, to me, makes it much easier for the offensive and the offending individuals to violate, and then it gets brushed over.

So I am very concerned about that. Human rights always suffer when they are done or focused upon behind closed doors. Sometimes it helps a little bit; often, it does not.

So I would ask you if you would speak to that. The coalition of the willing you talked about, is anything like that being put together? And I know that, Mr. Carisch, you make a point that we have sat on the sideline. We joined the chorus who do nothing. And I remember in 2005, we tried very hard as a country, our negotiating team, to get at the U.N. a resolution that had further teeth, that would have not just focused on the Janjaweed and others getting weapons, but also on the government itself in Khartoum.

We also, you point out in your testimony, and if you could—and I think your testimony was outstanding. When you talk about the eight categories of abuse, you testified that some arms and a majority of ammunition originate from Chinese manufacturers; that there is minimal cooperation and response to requests to the Chinese authorities.

If you could define some arms. Where are the other arms coming from? And minimal cooperation. Are they really cooperating at all? Are they, I mean, you mentioned also in your testimony the dialogue. Very often human rights dialogue, or even dialogue with regards to Sudan, becomes a facade for further mischief. Because after all, we are dialoguing, but the Chinese Government meanwhile is providing all these munitions.

Because again, you also point out that the material that was manufactured in China may have been legally delivered to the ter-

ritory of Sudan not under the embargo. I know that was attempted to be covered, and did not get covered.

It would seem to me that our negotiators should be saying wait a minute. You know, it is where the weapons end up that really matters the most, obviously. And if it is in the hands of killers and people committing genocide, that is what it is all about.

But to use a deadly loophole, like you know, they are coming ashore somewhere where this doesn't apply, I mean, that is a deadly loophole. You might want to speak to that.

Let me also ask briefly, if I could, in the time remaining, What would you recommend to the United States in particular, and to other countries who do care? But talk to us. When you talked about that the new resolution, 1891, is almost identical to previous ones, has no lack of adjustment to new emergencies, and the inability to stand on the principles previously decided and adopted, and is sending a loud signal to Darfurians the Security Council members, including the United States, are not coming to help.

I think that is very profound, that they are taking their cue that, you know, been there, done that, and we are not going to update the resolution. The mandate stays status quo. And you even get even stronger in your statement—and the others might want to speak to this, as well—that when you impose sanctions and don't enforce them, empty threats leads to more violence. And again, we are standing, as the United States, on the sidelines and not doing all that much. I am very, very concerned about that, and you might want to speak to that, as well.

And I think, and finally, we heard earlier from General Gration that regarding the arms to southern Sudan, the 79,000 AK-47s we have heard about, and I am sure there is a lot of other materiel making its way south, that we have not found linkages to Khartoum. I mean, can you say that with a straight face?

Mr. PRENDERGAST. Who gets to go first? To deal quickly with each of the excellent points, first, I am really worried about the mixed messages that are coming out of the U.S. Government, that have been coming out of the U.S. Government for the last 7 or 8 months.

There is a strange disconnect between General Gration and what he says about the elections, as you read in his testimony. But then the State Department issued a very negative assessment of their take on where the electoral process was just a few days after he got back, as if they hadn't coordinated. And then there is this exchange today about whether there is a confidential annex or not. I mean, that is incredible. The Secretary of State said there was a confidential annex. To me, you don't contradict that in public; that is a story. You are making, you are generating controversy for no reason.

And I don't know what it means. Does it mean we don't have a confidential annex, or is he just calling it something else? It is worth investigating, worth asking about.

Third, you know, this genocide or not genocide; this just ongoing difficulty with being able to just simply say what the policy of the President of the United States is, who has said it is an ongoing genocide. Where is the controversy?

Second point there is that about the issue of having these benchmarks not be public. I think the reason why, having worked in the White House before, is that the executive branch is generally—Republican, Democrat, anything—don't like to be pinned down on what they are going to do. In other words, if they said publicly a benchmark for us doing something is, you know, something about the elections, then if that thing happens, then they have got to do something. They would rather leave it somewhat vague so they can make a week-to-week, day-to-day assessment of their options, and so they keep it deliberately vague.

That is why it is so important for you to demand the briefings, and get these briefings, so that you can at least have something to hold them to it in an oversight capacity. We don't, sadly, have the capacity, as advocates, to have a confidential briefing. We have just got to trust that they are telling the truth, that in fact there is a, you know, a set of benchmarks with real consequences or real incentives in that package, but who knows?

So third, I do want to make a very strong point, at least strongly felt point, about why we are talking so much about consequences.

We are not looking to punish the NCP; we are looking at the empirical evidence of the last 20 years. When the National Congress Party has changed its position and compromised, it has been when there has been concerted multilateral pressure.

They booted bin Laden out when there was concerted multilateral pressure through the United Nations Security Council. They stopped, remember, the slave rating support to the Misseriyan militia. You guys, this subcommittee and you two in particular were so important in that happening, because they feared that Congress was going to provide aid to the SPLM. That is why they stopped. There was no other reason. There was a potential serious consequence, so they said whoa, wait a minute.

Same thing with the aerial bombing. Remember Franklin Graham and all that stuff. And they worried that the Christian Coalition and conservative Christian groups were going to tell President Bush to do something more. So they stopped it because it became untenable for them to do it.

The counterterrorism cooperation after 9/11. Before 9/11 they didn't help us with anything. After 9/11, they helped real fast, after Wolfowitz said maybe we ought to look at Sudan as the next one to invade.

And then finally, the CPA itself. There was real, you know, there was frustration on Capitol Hill, maybe we should be supporting the SPLM more strongly, and Darfur was building. So there was real pressure, multilateral pressure, and that led to the compromises necessary to have a CPA. That is real evidence that this kind of approach or policy works.

That is what is so distressing, to see the current Special Envoy, who doesn't seem to at least acknowledge the history, a 20-year history, where previous policy has actually succeeded when the United States led multilaterally to achieve a human rights objective in Sudan, and succeeded because we stuck to our principles, and then worked the pressures route, and actually was able to accomplish what our particular objectives were.

And I think again, in the oversight capacity and in the watchdog capacity that Congress and civil society has, we ought to be really hammering on them as much as we can.

Mr. CARISCH. Thank you, Congressman Smith. Just very briefly, then—I think we are running out of time—the arms embargo that was imposed, 1591 in 2005, I think did a good thing by expanding it to all the signatories of the germane ceasefire agreement.

What it failed to do is to make sure that it puts into, this is of course still this kind of regional limitation just on the three to four states.

When you look at the topography of Sudan, of course immediately it becomes apparent that to monitor those borders, a substantial part within Sudan, and then you have international borders, is a difficult thing to do. Correctly, they addressed this a little bit by giving UNAMIN actually an arms embargo monitoring mandate as well.

Well, they have never reported a line about it. So that needs to be addressed.

Mr. SMITH. Can you touch on those other points, too, briefly? I know we have got to go soon.

Mr. CARISCH. Sorry?

Mr. SMITH. Could you touch on some of those other points, too?

Mr. CARISCH. Right. So then regarding China. Look, I mean, in the U.N., when you sign a letter, and you get the letter back acknowledging that they have received the letter, that is cooperation. Thank you.

Mr. SMITH. So now that is the extent of it? That is important to know, because minimal cooperation means exchange of letters.

Mr. CARISCH. There are maybe some little incremental bits and pieces. But by and large, if you look in our report we have a table where we say how many issues we raised per country, and what has been answered. I mean, it is just—

Mr. SMITH. And some of the other munitions and some arms, but where are those other arms coming from that—

Mr. CARISCH. Some we are still tracing.

Mr. SMITH. Okay.

Mr. CARISCH. But there is, of course, a fair amount of really old stock, particularly in terms of arms, firearms, that is circulating the region. Some of it has probably come from the various, neighboring conflicts have come in. It is a laborious process, and member states need to participate in this tracing process in order for us to succeed. Unfortunately, I don't.

Mr. SMITH. Does anybody want to take a stab at whether or not, how credible the statement was that AK-47s are making their way down 79,000 strong, and maybe more? And it doesn't have Khartoum's fingerprints all over it?

[Off-record response from briefer.]

Mr. SMITH. Well, again, General Gration pretty much, it was kind of a boast. And if it is true, it would be, and if it was truly a registration it could be verified. But he talked about the 12 main Sudanese who have signed up.

Do you have any idea how many of those might be just carried by lists by the—okay, that is very disturbing.

I want to thank you very much for this hearing, and I will send additional questions to our distinguished panel. And I thank you.

Mr. PAYNE. Thank you. We are on a—Dr. Newcomb has to leave. But we do have, and if you have to leave, we won't say it is an affront to our Congresswoman.

But Congresswoman Jackson Lee has joined us, and we appreciate it. I know you have been in other markups all day. And so if you have any questions you want to ask.

Ms. JACKSON LEE. I will try to go directly to Dr. Newcomb, but let me just thank you, Mr. Chairman, one for having the envoy here. We were in a Homeland Security hearing on the White House breach. I wish I didn't have to be in that hearing; I wish that breach of security did not occur. I wish it was not taken in the light format that it was, but it was a serious consideration. I thank you for your patience for my absence.

I am committed to victory in Sudan, and everyone has a different interpretation of that. I missed the envoy, but I understand that he is steadfastly looking to define the conflict, or a definitive into the conflict, to implement the North-South Comprehensive Peace Agreement and ensure that Sudan does not provide safe haven for terrorists.

Dr. Newcomb, can you—I am just going to go down the row here until I get to the Lieutenant General. First, what do you want? And two, do we have the right posture now, as the United States postures itself, in bringing about the solution as articulated by the envoy? And is he on the right track?

And this is not speaking on someone who is absent. All of this will be on the record. And I look forward to engaging with the envoy, as well. Dr. Newcomb.

Mr. NEWCOMB. I appreciate that question. You know this phrase, you campaign in poetry, and you manage in prose. And I have often felt that once the campaign was over, that the expectations that were set by the poetry during the campaign don't meet the management of the prose in the policy.

And I represent the private sector, where we are engaged philanthropically to support the good efforts of the United States Government, as well as others. And this lack of signaling, this lack of leadership role overall has really led to just keep a lot of the philanthropic efforts on the margins.

And so I think the liberation and the significant moral authority, if you will, that the U.S. plays here to signal and to play that leadership role is so important, at least for my organization and many others that I work with.

Ms. JACKSON LEE. So we should be more vocal, and we should denounce actions and be clear about our position.

Mr. NEWCOMB. I think we have a leadership role to play in the international community, that is not being played at this moment. And that we should step into that vacuum, and play a far more deliberate role there.

Ms. JACKSON LEE. Mr. Carisch, if I could? Thank you. Thank you, Doctor. Just, same question.

Mr. CARISCH. Well, thank you for asking the question. Well, as I have pointed out hopefully with my testimony, there is a definite

need for leadership. And maybe this allows us to come back to a question that Congressman Smith had asked; What can be done?

The central point that I was trying to make today is that the leadership now I think that the U.S. can demonstrate to the world is by finding a way how to combine mediation and the sanction process.

Ms. JACKSON LEE. Combine the what?

Mr. CARISCH. Combining the mediation efforts that you are undertaking with the ongoing and existing sanction mechanisms that are in place, and to which obviously the United States is part of. I think that needs now some work to develop this, in terms of practical steps that can be implemented. But I think that is now a realistic approach to the situation we are encountering there.

Ms. JACKSON LEE. Mediation and sanctions should go hand in hand.

Mr. CARISCH. That is true.

Ms. JACKSON LEE. The last two witnesses, Mr. Prendergast and Lieutenant General, if you would add to your comments. Are there still killings going on in the region? And what does our position that we are taking as Americans with the envoy do to the, the idea that killings are going on, and our efforts may not equate to that intensity?

Mr. PRENDERGAST. This is not, in the last 20 years, Congresswoman, this isn't one of those times, one of those moments, if you take a snapshot, where mortality rates are spiking. You know, 2 years ago in Darfur, they were spiking. Six years, 8 years ago in southern Sudan they were spiking.

But we see different manifestations of the same policy of dividing and destroying the communities, from which political opposition emerges. So in Darfur, people hemmed in camps, a policy of rape as a tool of war, turning aid on and off, throwing out NGOs. General Gration misses the point about throwing those 13 NGOs out. Those 13 NGOs, the majority of them were focusing on violence against women.

It is hard enough to replace the humanitarian capacity. He is absolutely right, we desperately worked to barely replace the humanitarian capacity over the last 6 months. But we haven't replaced the capacity to treat the survivors of horrific sexual violence. And violence is a tool of war. That is a grossly negligent position on the part of this administration, not standing up for the women and the girls in Darfur who are being targeted.

In the south we are seeing the beginnings of what we saw in Darfur in 2002, the year before the genocide began. And what we saw during the 20-year war, from 1983 on. And that is the use of militias in the south to destabilize. And you see what are sometimes called inter-communal violence, or tribal violence, or cattle raiding or things like that. Suddenly, hundreds and hundreds of people are being executed in the context of a cattle raid? Well, I mean, as Congressman Smith just said, can you credibly argue that this isn't an escalation? No, I don't think so.

So the approach, now to answer the first question, the approach that has been taken so far I think is marked by four elements. Quiet engagement by the Special Envoy. Incentivizing the path to behavior change. So offering incentives in the form of better rela-

tions with the United States, or continuing engagement, playing nice publicly even is an incentive.

Then the third aspect is moral equivalency, never blaming one side or the other, just saying this thing isn't happening, or this thing is wrong, without saying somebody is actually responsible for it.

And then fourth, a total lack of consequences for the violence that we have just described, and for undermining peace efforts.

The alternative that I think some of us on the outside within the various coalitions of activists are saying should be marked by a very different set of four approaches.

The first one is higher-level engagement. We do need the President, we do need the Secretary of State to occasionally engage on these kinds of things. We know Ambassador Rice is, but we need to see that higher-level engagement, so that it is clear to the world that this is an issue that matters.

It was disappointing to all of us that, when President Obama and President Hu rolled out their, whatever you call it, communiqué at the end of their meetings. There was no mention of Sudan, even though we were told that he raised it privately. It would have been good even just to say, Hey, we pledged to work together to end violence or something. You know, anything. So higher-level engagement, number one.

Number two, instead of the incentivizing, instead of incentivizing the path to better behavior, pressure. Because that has worked. And that is what I was talking about when you came in.

The third element is, stop the moral equivalency. When one of the parties is undermining, dramatically undermining forward progress on implementation of the CPA, dramatically undermining security in Darfur, we ought to say publicly, very clearly, that that party is doing it, and that is why we have a problem with what is happening. At least stand up for the people who are suffering the results.

And then finally in the fourth element of an alternative strategy to the one that is being pursued presently by the Special Envoy, and the most important one, is we have got to introduce consequences. If you are going to commit genocide, if you are going to undermine peace deals, if you are going to mar the preparations for a credible election, then there should be some form of multilateral consequence that the United States needs to lead the building of and imposition of around the world.

And we talked a lot during the hearing about what kinds of things can be done. Those that argue we have tried everything, and they didn't work, are incorrect. There are many other things that can be done to ratchet up the pressure and work multilaterally to bring about change.

Ms. JACKSON LEE. Lieutenant General? Thank you very much, Mr. Prendergast.

[Off-record response from briefer.]

Mr. PAYNE. Thank you very much.

Ms. JACKSON LEE. If I may just conclude, and just say something, Mr. Chairman. If you would just yield.

Mr. PAYNE. Yes, go right ahead. Because we have to leave the room. They have a big reception coming up here in about 10 minutes.

Ms. JACKSON LEE. And I do want to accommodate. Let me just thank you again.

In his absence, let me thank Major General Gration for his love of Africa, and his concern. Mr. Chairman, however, I would offer to say that we are getting a potential roadmap here of these very fine leaders that may be the road to nowhere. And I thank the committee for bringing to our attention this crisis that does not get the attention that I think it deserves.

Mr. Prendergast, I am going to want to work with you directly on this whole question of sexual violence. When I was in Darfur it was occurring. It is not murder and death, as you note, but for some it is the death of their lives in terms of how they lived it.

Lieutenant General, I think the pitting one against another leaves us in the condition and predicament that southern Sudan needs help, and Darfurians are still in camps. It is our commitment that we must not abandon this cause.

I yield back.

Mr. PAYNE. Thank you very much. And thank you for coming. Let me certainly thank the panel. This has been extremely informative.

We have a very serious situation here. We know, because we have been watching the Government of Sudan for several decades. And as has been indicated, they only respond to pressure.

I think that John Prendergast really hit the nail on the head. I think this current administration is trying to come up with a policy, but time is moving on. As I indicated before, half of our current term as Congressmen are up. As a matter of fact, after May or June, you are into campaign mode, and so almost two-thirds of your term is up.

Now, the administration doesn't necessarily have to gauge their progress, or lack of it, on our terms. However, we do look at what are we going to accomplish in a term. And it has taken quite a while for the team dealing with Africa in general, and Darfur, I mean Sudan in particular, some time to assemble itself. And we have been patient. This was the first hearing we have had with the Special Envoy, and we are almost going into a new year, having 1 year already pass.

And so there has been a level of frustration. I think that this has been a very good airing. I think that the administration is attempting to come up with policies. Afghanistan has taken some time to try to come up with a so-called policy, but it has been all this time deciding what the policy is.

We have seen China, whether we are going to be in love or at war, or angry or friendly. And they are still coming up with a policy on Tibet or Burma, et cetera.

So we have been giving, we know it is a new administration. And there are many, many issues on the table. Many of the problems have been exacerbated by the fact that they were denied things like climate change, dealing with some of these other tough issues that have been, that have been postponed or delayed. So there are a lot of things on the table.

I think that we, though, need to step up with some affirmative action. I do believe there may be several points of view in the administration, and that is one of the reasons why it is grappling with a Sudan policy, as it has grappled with an Afghanistan policy, trying to come up with a policy. Things that happened in the past, cattle raids and inter-communal violence years ago was not as deadly as it is now, because AK-47s were not that available. And so violence was in a different manner. You had few deaths, perhaps. With AK-47s you can't predict the number of casualties you will have. With these same kinds of issues, now they can be escalated.

And so we are going to certainly urge the administration to really kind of fine-tune its policy. And we are going to keep the pressure on. We feel that there must be a solution. Time is running out. We have been patient, but we must, as I mentioned before, make some strong affirmative actions in the right direction.

So I would like to once again thank all of you here, and also our Special Envoy who was here. I would like to say that I ask unanimous consent that statements from the Save Darfur Coalition be made a part of the record. Without objection, so ordered.

And I ask unanimous consent for our members to have 5 days to revise and extend their remarks. Without objection, so ordered.

Once again, thank you, and the meeting stands adjourned.  
[Whereupon, at 3:34 p.m., subcommittee was adjourned.]



# A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

**SUBCOMMITTEE HEARING NOTICE**  
**COMMITTEE ON FOREIGN AFFAIRS**  
*U.S. HOUSE OF REPRESENTATIVES*  
*WASHINGTON, D.C. 20515*

**SUBCOMMITTEE ON AFRICA AND GLOBAL HEALTH**  
**Donald M. Payne (D-NJ), Chairman**

October 29, 2009

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend the following OPEN hearing of the Subcommittee on Africa and Global Health, to be held in **2172 of the Rayburn House Office Building**.

DATE: Thursday, October 29, 2009

TIME: 9:30 a.m.

SUBJECT: A Call to Action on Food Security: The Administration's Global Strategy

WITNESSES:

Thomas Melito, Ph.D.  
Director  
International Affairs and Trade Team  
United States Government Accountability Office

Helene Gayle, M.D., M.P.H.  
President and Chief Executive Officer  
CARE

Julie Howard, Ph.D.  
Executive Director  
Partnership to Cut Hunger and Poverty in Africa

Reverend David Beckmann  
President  
Bread for the World

Mr. Richard Leach  
Senior Advisor  
Public Policy  
Friends of the World Food Program

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee as noted above.*

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## COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Africa and Global Health MEETING

Day Thursday Date 10/29/2009 Room 2172 RHOB

Starting Time 9:35 am Ending Time 11:31 am

Recesses \_\_\_\_\_ (\_\_\_\_\_ to \_\_\_\_\_)

Presiding Member(s) Congressman Donald M. Payne

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session       Electronically Recorded (taped)   
 Executive (closed) Session       Stenographic Record   
 Televised

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*  
"A Call to Action on Food Security: The Administration's Global Strategy"

SUBCOMMITTEE MEMBERS PRESENT:

Watson, Smith, Boozman

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an \* if they are not Members of HIRC.)*

HEARING WITNESSES: Same as meeting notice attached? Yes  No   
*(If "no", please list below and include title, agency, department, or organization.)*

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE 12:30 pm

or  
 TIME ADJOURNED 11:31 am

  
 \_\_\_\_\_  
 Subcommittee Staff Director

**Hearing of the Subcommittee on Africa and Global Health  
Sudan: A Review of the Administration's  
New Policy and a Situation Update**

**December 3, 2009**

**Statement by Rep. Christopher H. Smith**

Thank you, Mr. Chairman, for holding this hearing to allow the Subcommittee to review the Administration's new Sudan policy and to examine the critical situation in that country. I particularly appreciate this opportunity to hear from the Special Envoy, Major General Scott Gration, about the Administration's efforts to deal with this crisis. The number and complexity of the issues that the Special Envoy is facing are truly extraordinary, and the energy and determination with which he already is tackling them demonstrates his commitment to achieving peace for the Sudanese people.

As you know, Mr. Chairman, we had an in-depth examination of the situation in Sudan in late July during a subcommittee hearing with several recognized experts. The Tom Lantos Human Rights Commission also held a hearing on Sudan that same week. Between these two forums, we obtained a deeply disturbing overview of the challenges facing the people of Sudan and the potential ramifications if our efforts to overcome those challenges fail. A number of my colleagues and I found the testimony from those hearings to be so compelling that we sent copies to key Administration officials, including General Gration, with the expectation that they would find it useful in the development of our government's Sudan strategy.

The gravity of the situation that we are addressing at this hearing cannot be overstated. We all recognize that Sudan is at a critical crossroads – it may successfully traverse elections in 2010 and a referendum in 2011, and establish a stable, long-term peace in Darfur along the way, or it could slide back into a state of carnage and destruction that has plagued the country for two decades. The implications are formidable, not only for the Sudanese, but for the people of the entire region.

There have been a number of important developments since the July hearing, most notably the Administration's issuance of its new strategy on October 19<sup>th</sup>. I particularly laud the strategy's recognition that:

- U.S. diplomacy to advance peace and security in Sudan must include critical international actors;
- Assessments of progress and decisions regarding incentives and disincentives must be based on verifiable changes in conditions on the ground;
- Accountability for genocide and atrocities is necessary for reconciliation and lasting peace; and
- Sudanese support for counterterrorism objectives, while valued, will not lead us to turn a blind eye to Khartoum's evasion of its responsibilities in Darfur or in implementing the Comprehensive Peace Agreement.

Those of us who have followed the tragic developments in Sudan over the years realize that an essential aspect of the strategy is whether sticks as well as carrots are used to motivate the Sudanese regime. The establishment of incentives and disincentives, the determination as to when and how to utilize them, and the means for measuring progress toward achieving the strategy's objectives will all be critical to its success. For understandable reasons, this essential element of the strategy has been classified and has not been made available to the general public.

Less understandable is why members of this Congress have not yet been able to obtain this critical information. The strategy itself provides assurance that the Special Envoy will "maintain open lines of communication with Congress to ensure that serious and substantive consultations are a regular part of the policy implementation process." And yet despite numerous requests from the Ranking Member of the Foreign Affairs Committee, Ms. Ileana Ros-Lehtinen, for this information, and requests for other classified information related to Sudan that I made in August and September, we have yet to receive a positive response from the Special Envoy or other State Department officials.

Mr. Chairman, I will be delivering a formal written request to General Gration at the end of this hearing for a classified briefing on Sudan generally and on the strategy in particular. You and other interested members would certainly be welcome to participate in that briefing, and I would suggest that the information requested is essential to the fulfillment of our oversight responsibilities.

In the meantime, I look forward to hearing from the Special Envoy during this hearing, as well as our other distinguished witnesses.

Thank you, Mr. Chairman.

