

Agreement on the Implementation of Principles Governing the Protection and Provision of Humanitarian Assistance to War Affected Civilian Populations

Geneva, Switzerland

15 December 1999

The Government of the Republic of the Sudan (GOS), the Sudan Peoples' Liberation Movement (SPLM), hereinafter referred to as the Parties to the Conflict, and the United Nations:

Considering the history of relations between the Parties to the Conflict and the United Nations in Sudan and in particular the 1989 Agreements establishing Operation Lifeline Sudan (OLS) and other agreements and practices constituting this Humanitarian Operation;

Recognizing the importance of strict adherence by the Parties to the Conflict and the United Nations to the highest standards of conduct and international humanitarian principles and those agreed upon in the 1992 and 1994 tripartite agreements of the Inter-governmental Authority on Drought and Development (IGADD) sub-committees, as well as previous agreements under OLS;

Recognizing internationally accepted standards and regulations pertaining to the security and safety of humanitarian aid personnel and property, and the Rome Security Protocol; and

Recognizing the rights of civilian populations in armed conflicts as embodied in International Humanitarian Law, Customary Humanitarian Law and International Human Rights Law;

Agree to adhere to the following principles and modalities:

1. War-affected civilian populations have the right to receive humanitarian assistance

The Parties to the Conflict agree that all humanitarian agencies accredited by the UN for humanitarian work in the Sudan shall have free and unimpeded access to all war-affected populations in need of assistance and to all war-affected populations for the purposes of assessing whether or not they are in need of humanitarian assistance. The United Nations will decide on all routes and modalities for all assessments and deliveries of humanitarian assistance in consultation with the Parties to the Conflict. The United Nations will advise the Parties to the Conflict of all intended assessments and deliveries of humanitarian assistance, and the Parties to the Conflict agree to inform the United Nations of any possible security risks to humanitarian personnel in accordance with the Rome Security Protocol. The Parties to the Conflict agree that the United Nations has the right to decide on all security issues relating to its personnel, and to NGO personnel for whom it is providing security coverage, and the Parties to the Conflict will to the best of their abilities facilitate access for all humanitarian agencies accredited by the UN for humanitarian work in the Sudan. The Parties to the Conflict shall be absolved of any responsibility connected to any decisions taken by the United Nations without consultations with the Parties to the Conflict.

The Parties to this Agreement will work towards standardized methods and modalities for determining target beneficiary population figures which the United Nations will be able to use in all areas of operation. Where war-affected civilians are in need of assistance and are not receiving assistance due to underestimation of the target beneficiary population, the relevant Party shall immediately inform the United Nations, whereupon that Party and the United Nations will take urgent corrective action.

2. War-affected civilian populations have the right to retain all humanitarian assistance for which they are targeted

The Parties to this Agreement guarantee that all humanitarian assistance is to be distributed only to targeted civilian beneficiaries among the war-affected populations. The Parties to the Conflict guarantee that all humanitarian assistance targeted and intended for beneficiaries in areas under their respective control will be delivered to those beneficiaries only and will not be taxed, diverted or in any other way removed from the intended recipient or given to any other persons or groups. In the event of allegations of diversions, misappropriations or any other form of misuse of humanitarian assistance, the relevant Party to the Conflict, together with the United Nations, will immediately investigate and document the alleged misappropriation, and the relevant Party to the Conflict will take immediate corrective action. The United Nations agrees to work in close collaboration with the Parties to the Conflict and non-governmental organizations to ensure adherence to the highest standards of humanitarian principles at all times.

3. Beneficiaries have the right to receive protection

The Parties to the Conflict agree and guarantee the right of beneficiaries to protection, including physical protection from the effects of armed conflict as accorded by International Humanitarian Law, including the Geneva Conventions. The Parties to the Conflict agree and guarantee the right of beneficiaries to full legal protection under International Human Rights Law. This provision applies to the SPLM even though it is not a formal signatory to the various treaties and conventions that constitute International Human Rights Law.

The Government of Sudan and the SPLM are responsible for the actions of their respective armed forces for the physical protection and safety from the effects of the war, of the civilian populations.

The Government of Sudan is responsible for protecting and promoting the legal rights and entitlements of the civilian population in Sudan, pursuant to its various international treaty and convention obligations and the National Law of Sudan.

As a movement, the SPLM is not legally responsible for protecting and promoting the legal rights and entitlements of the civilian populations in areas under its control pursuant to international treaties and conventions. However, the SPLM and the other Parties to this Agreement recognize that the SPLM is legally bound by customary human rights law and has a moral and ethical obligation to protect and promote the rights of the civilian population living in areas under its control. The body of international customary human rights law is embodied in a number of instruments, which include, but is not limited to:

- The Universal Declaration of Human Rights, 1949
- The International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- The International Covenant on Economic, Social and Cultural Rights, 1966
- The International Covenant on Civil and Political Rights, 1966
- The Convention on the Elimination of All Forms of Discrimination against Women, 1979
- The Convention on the Rights of the Child, 1989

4. Humanitarian action must respect and promote the human dignity of beneficiaries

The Parties to this Agreement will ensure that all humanitarian assistance will be provided in a manner that will enhance and promote the human dignity of targeted civilian beneficiaries. Beneficiaries have the right to utilize all humanitarian assistance as they determine is in their best interests and as they deem fit, so long as no humanitarian assistance is used in a manner which would violate the basic principles of neutrality and impartiality and will not be used to support or contribute to the war efforts of either of the Parties to the Conflict. The Parties to the Conflict agree that beneficiaries have the right to form community groups, representative groups or relief committees for the purpose of providing advice and information relevant to the targeting and distribution of humanitarian assistance, and for the purpose of participating in the process of targeting and distribution. The Parties to the Conflict and the United Nations shall consult with community groups, representative groups, relief committees or humanitarian counterparts on targeting and delivery of humanitarian assistance, and where necessary, individual beneficiaries.

5. Beneficiaries have the right to protection from forcible relocation from their legal or recognized place of residence

The Parties to the Conflict agree and guarantee that no beneficiary will be forcibly relocated from his or her legal or recognized place of residence. The Parties to the Conflict agree and guarantee that all beneficiaries will have the right to provision of secure land title, where a legal land title system is in operation. When communities may be relocated they will be consulted on an individual and community basis on alternatives to relocation. Where communities are to be relocated, they are guaranteed individual and community participation in the relocation process, particularly prior to relocation, and will be given a reasonable period of notice prior to relocation. Communities will only be relocated to suitable sites with basic services and proper accommodation in place prior to relocation. Communities will only be relocated in a manner that preserves the right to life, dignity, liberty and security.

6. Monitoring and Evaluation

The Parties to the Conflict agree that the United Nations has the right to ensure, through accepted transparent monitoring and evaluation policies and practices, that all humanitarian assistance reaches targeted beneficiaries only. In circumstances where, due to factors such as, but not limited to, theft, looting, taxation or diversion, food and other relief supplies are not reaching targeted beneficiaries, the Parties to the Conflict agree that these supplies can no longer be defined as humanitarian assistance. The Parties to the Conflict agree that,

following all due process to and reasonable attempts to rectify the situation, the United Nations has the right to suspend the provision of such supplies until such time as the United Nations agrees that adequate corrective measures have been taken in accordance with Article 2 of this Agreement.

7. Implementation of this Agreement

The present Agreement will enter into effect upon signature by the duly authorized representatives of the parties, the Government of the Republic of the Sudan, the Sudan Peoples' Liberation Movement and the United Nations. The United Nations agrees to meet with the Parties to the Conflict on a regular basis to review written submissions from either Party or OLS concerning the implementation of this Agreement. This Agreement may be amended or otherwise modified only by the written agreement of all three parties to the Agreement. Should two of the parties to this Agreement request the convening of a session of the Technical Committee on Humanitarian Assistance (TCHA), the Chair of the TCHA will convene such a meeting within a reasonable period of time, which will not be more than two months. If the Chair of the TCHA considers that there is a need for the TCHA to meet on an emergency basis, the TCHA will be convened.

Signed by:

James Mabor Gatkuoth
Minister for Humanitarian Affairs
Southern States Coordination Council
For the Government of the Republic of the Sudan

Elijah Malok Aleng
Executive Director of the SRRA and
Senior Advisor to the Chairman on Political and Economic Affairs
For the Sudan Peoples' Liberation Movement

Ross Mountain
United Nations Assistant Emergency Relief Coordinator
For the United Nations

Dated this 15th day of December, 1999