



IPI POLICY FORUM

“Dilemmas of Regional Peacemaking: The African Union in Darfur”

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CHAIR:

Ambassador John L. Hirsch, *Senior Adviser, International Peace Institute*

SPEAKERS:

Dr. A. Sarjoh Bah, *Senior Fellow and Coordinator, African Security Institutions, Center on International Cooperation, New York University*

Mr. Sam Ibok, *Deputy Director, Africa II Division, UN Department of Political Affairs, former Leader of the AU Mediation Team on Darfur*

Cdr (Rtd) Seth Appiah-Mensah, *Political Affairs Officer, UN Department of Peacekeeping Operations, former Sector Commander and Military Adviser to the Head of Mission, African Union Mission in Sudan (AMIS)*

[Dr. Bah's remarks below are reproduced from his presentation notes. Transcript from recording starts on page 6]

Dr. A. Sarjoh Bah: I would like to start by thanking Adonia, Mashood and John for partnering with us on this event. I would also like to thank Mr. Ibok and Seth for agreeing to share with us their invaluable experience from the AU's tortuous peacemaking efforts in Darfur. Both men had front row seats in the AU's mediation and peacekeeping endeavors, so don't miss the opportunity to ask them all the difficult questions that you may have.

My presentation will focus on highlighting the strategic dilemmas that confronted the AU in Darfur and continues to do so today.

To do this, I will focus on three key areas: First, I will briefly explore what I call the “willingness and capacity” gap that was made evident by the AU's engagement in Darfur; second, I will explore the dilemmas of embarking on regional peacemaking in an

era of internationalized justice; and finally, I will reflect on the question of partnership especially as it relates to support for regional peacemaking.

Coming a year after the inauguration of the AU, the Darfur crisis exposed the strategic and operational challenges of implementing the AU's ambitious peace and security agenda. As you are aware, the AU's founding Charter, the Constitutive Act, provides for the Union to intervene in a member state in respect of grave circumstances, namely war crimes, crimes against humanity and genocide.

However, the challenges that dogged its mediation and peacekeeping efforts, the details of which you will hear from the next two speakers, demonstrated the gap between the AU's willingness to intervene in conflict situations and its capacity to do so effectively. Despite a strong commitment to resolve the conflict, the AU's peacemaking efforts, especially its peacekeeping venture, floundered. Perhaps, more than anything else, lack of cooperation by the parties to the conflict coupled with a fractured international response undermined its efforts, setting the stage for the long-drawn out transition that eventually morphed into the current UN-AU hybrid mission, UNAMID; the first such partnership between the two institutions. The complexity of the challenges proved to be an early test of the AU's ability to translate its interventionist security regime into action.

The AU needs to urgently address this chasm in order to strengthen its peacemaking efforts in Darfur and elsewhere. While current efforts to operationalize the African Standby Force are steps in the right direction, the AU needs to do more to fill the financial and logistics gaps that crippled its second and to date, largest peace operation, AMIS.

The second issue that I would like to address is the dilemma of undertaking regional peacemaking an era of internationalized justice with a specific focus on the ICC's indictment of President Omar Bashir. Needless to say, the indictment has added a complex layer to an already complex and complicated process. To me, the effect of the indictment on the AU's peacemaking efforts manifests itself on three levels. First, it has led to open rifts between the UN Security Council and the AU's Peace Security Council. Although the PSC did not object to the indictment per se, it expressed alarm at the poor timing, which in its view could worsen the Darfur crisis and potentially unravel the North-South peace process. Consequently, the PSC made repeated requests to the Security Council to suspend the indictment by invoking Article 16 of the Rome Statute. The suspension, the PSC argues would give peace a chance; an argument that I agree with largely. However, much to the anger of the PSC, its requests were ignored by the Security Council, exposing the undercurrents in this critical but fragile partnership.

You will agree with me that the indictment touches on an important issue, that is, the unresolved dilemmas of dealing with impunity on the one hand and promoting peace and justice on the other. This raises at least three crucial questions: First, should peace be pursued before justice or justice before peace? Second, what are the inherent challenges of pursuing peace and justice concurrently? Finally, who decides on the timing of these processes: national, regional or international actors? While I will not pretend to have

answers to any of these questions, to me, the establishment of the AU's High-Level Panel on Darfur is a good first step that could set the tone for its broader response to the dilemmas posed by this issue. It is worth noting that the High-Panel was established against the backdrop of a growing concern among African leaders of what they perceive as the abuse of the principle of universal jurisdiction.

By all accounts, the High-Panel's recommendations including the establishment of a hybrid-court and a truth commission are far-reaching and groundbreaking. Now it remains to be seen whether and how the AU will ensure that these recommendations are implemented. Early indications are not promising given that the Government of Sudan had expressed reservations about the establishment of a hybrid court since that would be a violation of its constitution. Moreover, from a practical standpoint, it is unclear who will bear the financial costs of running the hybrid court, and whether western powers would support the proposed court given that some of them already view it as an attempt to circumvent the ICC's move against President Bashir.

At the institutional level, the AU's response to the indictment reveals important differences between its two key decision making organs, the Summit of Heads of State and Government, and the PSC. First, and perhaps less surprising, the Summit of Heads of State is more political, and its actions are often driven by the political outlook of the chair of its rotating presidency. For instance, Libya, in its capacity as the AU Chair in 2009, strongly pushed for the decision not to cooperate with the ICC. However, efforts to present the decision as one that was based on consensus failed as it was subsequently repudiated by several members on procedural and substantive grounds. But Libya's role in this instance demonstrated the impact of the chair of the AU on its peacemaking initiatives. The decision as you may be aware, put the AU and even the High-Level Panel at odds with some of the warring factions in Darfur who accused it shielding president Bashir.

On the other hand, while the Peace and Security Council is undoubtedly driven by the national interests of its members, its call for the suspension of the indictment appears to be less politically motivated for two key reasons. First, in calling for the suspension, the PSC did not dispute the indictment, it merely advocated for proper timing to ensure that its peacemaking efforts are not jeopardized. This appears to be consistent with its position on the dilemma of peace and justice. In the eyes of the AU, the two are not mutually exclusive, they are instead, mutually reinforcing.

Second, the PSC anchored its call for the suspension on Article 16 of the Rome Statute, which empowers the Security Council to defer investigation or prosecution by the ICC of a particular case if and when the need arises. Thus, the PSC's request could not be interpreted as politically motivated because it did not amount to a rebuttal of the ICC's indictment. The PSC's principled position in this instance, presents it as an impartial and pivotal actor in the AU's peacemaking efforts. I am convinced that maintaining that impartiality and the credibility that flows from it, is critical to enhancing future peacemaking by the AU.

At another level, the response of individual member states to the indictment exposed the fault lines in Afro-Arab relations in the AU and beyond. The responses of Arab members of the AU and their sub-Saharan counterparts have been starkly different; while some sub-Saharan members favored the move, their counterparts in the North objected to it. These divisions became more pronounced following the warrant and the AU's subsequent decision not to cooperate with the ICC. For instance, North African states, most notably Libya pushed for the decision not to cooperate with the ICC, while some sub-Saharan members -- most notably, Botswana, Ghana, and South Africa -- broke rank with the AU. The polarized responses by Afro-Arab members of the AU could be an indication of deeper divisions within the institution, with serious consequences for its peacemaking efforts in Darfur.

The other dilemma that confronted the AU in Darfur was the impact of the tensions and contradictions between existing and emerging principles and norms such as consent and the responsibility to protect on its peacemaking efforts. As you will remember, attempts to gain the consent of the government of Sudan for the deployment of a UN force in Darfur failed leading to the hybrid edifice, UNAMID. Difficulties in gaining the consent of the government of Sudan brought to the fore two issues. First, it exposed the political and legal challenges of implementing the AU's interventionist peace and security agenda. Politically, the AU had to walk a fine line between adhering to its stated principles, while ensuring the continued support of its members. Legally, it was apparent that the AU could not force the government of Sudan to consent to the proposed transition despite the widely acclaimed paradigm shift on the continent from non-intervention to non-indifference.

At a global level, difficulties of navigating the issue of consent drew attention to hurdles in enforcing emerging concepts such as the responsibility to protect (RtoP). While the Darfur crisis met or in some instances surpassed some of the thresholds for RtoP-type interventions, the principle of consent proved insurmountable. So, despite calls by Darfur advocates for the invocation of RtoP as a basis for international intervention, the concept was subject to varied interpretations, exposing the lack of clarity surrounding humanitarian intervention even in situations involving egregious crimes, as is allegedly the case in Darfur.

These dilemmas raised several unanswered questions for the AU regarding the compatibility of the principles of sovereignty, consent and the responsibility to protect with its interventionist security regime. This is critical because, despite the widely accepted paradigm shift mentioned earlier, sovereignty remains alive and well especially when it comes to military intervention. The AU needs to clarify its position on these thorny issues with the aim of ensuring their complementarity with its wider peace and security agenda.

One of the unintended consequences of the AU's intervention in Darfur has been to reinforce the need for a more structured international partnership for effective peacemaking. Given its acute shortage of resources, the AU's peacemaking effort in Darfur was supported by a range of actors including the UN, EU, NATO and individual

states. This approach appeared to herald a division of labor based on what I describe as a “blood-treasure” dynamics whereby, African countries provided the blood in the form of troops while their western counterparts provided the treasure in the form of finance and logistics. Unfortunately, that was not the case, as most of the external support was largely ad hoc and raised serious questions surrounding the issues of ownership, sustainability, flexibility and predictability. For instance, the AU’s reliance on external support undermined its claims to ownership of the peace process, just as the ad hoc nature of the partnership exposed the weaknesses of the support system. With the exception of the EU’s Africa Peace Facility, most other support to AU was neither predictable nor sustainable. Quite often, external support was not well coordinated, and was often characterized by inconsistency and competition, leading to an increased transaction cost for the AU. Moreover, there was no clear coordination strategy between the various multi-lateral and bi-lateral actors involved. In the end, external support to the AU in Darfur highlighted the absence of a structured international mechanism for providing support to regional organizations. While this lesson has been identified, it has certainly not been learned if the disjointed nature of international support to the AU’s current peacemaking effort in Somalia is anything to go by.

Despite these dilemmas and constraints, the AU’s response to Darfur demonstrated that it enjoys a high degree of political legitimacy among its members and at the international level. The unanimity of PSC decisions, the contribution of uniformed personnel by its members, coupled with international support – though inadequate - was an affirmation of its legitimacy.

However, lack of consensus between the AU and other external actors, especially the permanent members of the Security Council complicated its peacemaking efforts. Divisions among the permanent members of the Security Council contributed to the refusal of the government of Sudan to consent to the proposed transition from AMIS to a UN force. This reinforces the fact that, the success of regional peacemaking is partly contingent on concerted and cohesive international support, political and otherwise. When that is lacking, regional peacemaking can be slow, costly and tortuous for all involved including civilians who are often at the receiving end of conflicts.

To conclude, it is evident that the AU’s peacemaking efforts in Darfur exposed the risks of mounting a response without the necessary resources and international support to alter the dynamics on the ground in a positive way. It was obvious that the Government of Sudan preferred the AU because it was a more benign option due to political and other constraints. Politically, Khartoum calculated that the AU would be less assertive as it ran the risk of alienating some its members if it was deemed to be too assertive.

On the other hand, the AU’s intervention served as an alibi for the international community. That fact that there was an AU mission in Darfur helped the international community respond to pressure from advocacy groups in their countries by citing their support for the AU, despite their full knowledge of the inadequacies of that support. How the AU deals with the potential for its members and the international community to hide

behind it, as is currently the case in Somalia, would determine the success of its peacemaking endeavors in the future.

Thank you.

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[15 minutes of this event was not recorded due to technical error]

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Sam Ibok ... And so you know the story now. I think that, for me, what would have made a difference in Darfur? Two or three issues and I think that even in this present discussion unless those issues are addressed, we might not get the solution that we want.

The first one is the issue of the vice-presidency. The people of Darfur wanted a symbolic victory. That's all they wanted. They wanted to be sure that they could, they saw what had happened in Russia, they wanted something similar to that, but then on the issue of the vice-presidency, the SPLM said, no, you cannot give them a vice-president because you will be whittling down the influence of the first vice-president, which is from the SPLM and so that was lost.

The second one was the issue of region, because they wanted for historic reasons and all of that, they wanted Darfur to be a region, just like you have Southern Sudan, and I can't go into it, but I think most of you would know that. And then, of course, the third one was the issue of compensation. They requested for compensation to be paid for the damage and anybody who has gone to Darfur would know that there have been significant damages which have been done. It's a matter of destruction; the social fabric and everything in Darfur. Would it have cost the Sudan, its government, all that much if they had made available \$300 million, which was what we were asking them to do, to start the reconstruction of Darfur?

So, I think as we prepare for the next round of the talks, hopefully, the final round of the talks, it will be interesting to see how all of these issues will be addressed. But I think in the final analysis also one of the things that we learned from the Darfur negotiations was the need to involve civil society. We were negotiating peace in Darfur, Darfur is the land of people. The people of Darfur were not part of these negotiations. We negotiated the Darfur peace agreement over their heads. They did not have the input. So, how do they accept it? How do they internalize it? How do they make it be an agreement? It was an agreement. It wasn't the agreement. So, I think, in the future, I hope that the civil society will be involved and whatever comes out of the negotiations will be something that will be accepted and implemented by the civil society as part of their own efforts.

Thank you, Mr. Chairman.

John L. Hirsch: Well, thank you very much. It's certainly a very stark account that you've given us of all the lessons of what not to do. So, and to have a successful outcome, so the big challenge for everybody in the room is how do you structure a cohesive and coordinated negotiation that would have a different result? So, maybe later in our discussion, we can return to that. Our third speaker is Commander Appiah-Mensah and he's going to talk a little bit about the challenge of actual peacekeeping on the ground between the African Union and the United Nations. Seth?

Seth Appiah-Mensah: Thank you very much, Mr. Chairman, and thank you for inviting me and my colleagues. Dr. Bah, thank you very much also for approaching me and asking me to be part of this distinguished panel. In this capacity, I'm wearing the cap as a former military adviser and in Darfur in 2004 up to 2005. So, if you see me dodging the heavy questions that come from Dr. Bah, because I want to deliver to myself that capacity.

But to start with, I think I want to touch on one thing before I go into my talk and that is what Sam mentioned about the capacity of the people to negotiate. I think it is important to put into perspective what really transpired.

When we first deployed, when the Abuja talks actually started, I was asked as a Sector Commander to dispatch some of the representatives of the movement who I would need at the time to go to Abuja and, when they came back, I asked, "What happened in Abuja?" And these were supposed to be senior SLA commanders. And they say, well, we had a good time. We went to a good Abuja hotel and I say, yes, what happened, and they were hesitating. So, I said, what was the political objective of all this? They said, well, we don't know, but we had a free ride and we took our wives.

And so you could see from the beginning that these guys were not prepared, and I think the international community had the responsibility also, not only to send them, but to prepare them to negotiate properly, because the outcome of the result affects all of us, and today, I see that, too. The DPA that we have cannot do anything. If we had enhanced their capacity to lead properly, probably they wouldn't have felt cheated and they would have been part of the process and, therefore, today, it would have been a different story.

But back to the challenges in the field. My aim is to cover just two areas; the mandate and also strategic and operational challenges. The mandate, as Sam had mentioned, actually I tried to start from the Ndjamena Humanitarian Ceasefire Agreement, which was presided over by President Deby and that mandate gave the AU the authority to establish, what they call the Ceasefire Commission, and that Ceasefire Commission also had two representatives from each of the parties and also two from the government and to be chaired by the AU.

And based on that, the AU established the African Union Observer Mission in June, 2004. It was supposed to be supported by 300 troops. The troops deployed a month later, but the deployment of the observers was a big challenge because the AU's first

deployment in Darfur was facilitated by the government of Sudan and the AU was supposed to be impartial. The AU was received by the Wali and then given vehicles and everything from the first day. And, therefore, impartiality became questionable among the parties.

Now, when I arrived, there were 35 people on the ground and I was given \$5,000, three vehicles, two “toraya” phones, and asked to set up a sector. So, that shows you how difficult it was; \$5,000 cash. So, I drove to Kabkabiya where I established a sector, and surprisingly, nobody accepted the U.S. dollar in Kabkabiya. So, I went to the market to get beds for my people and they said, what is this? We don't know this. And I had to go the governor to negotiate, to sort of buy them on credit so that I could find time to change the money and, again, that became a problem for the parties because they didn't want to accept that.

So, this is the misstep, the wrong step that the AU took. It did not do proper assessment of the situation before deploying and that should have also accounted for the strategic establishment that should have taken place in Addis Ababa. When we were going through Addis, there was only one brigadier that we were told was facilitating all the troops; there was nobody else. That was the DPKO version of AU. So, you can imagine what the capacity was and that is how we were deployed.

So, when we got on the ground, capacity shot for, hit us straight in the face. There was no way you could function because we did not have the capacities. And I used to joke with my colleagues there that, in fact, the AU should have deployed chaplains and padres and imams instead of just shooters because every time you have to pray for something to happen, particularly when you deploy troops, observers, and they go for overnight and you have no communication with them for 24 hours. What could you do? You have to pray that nothing happens to them. So that mission, I believe, was for padres and imams, not for soldiers. But anyway, that is how the AU functioned at that time.

So, the involvement of these parties in the structure was one of the major problems the AU faced because the AU could not have an independent verification of report with other parties trying to use their “toroya” to change the decision, and I can give you countless examples, but John gave me only 12 minutes, so I'll not go into the examples. But you can see that that was a major blow example to the function of the CFC. Yes, the international community condemned the AU and there were a lot of criticisms. They were right, because they put their money there, but this was reality on the ground and I believe that these baby steps of AU became a problem because of that.

But I will return to that and say why maybe we should also give the AU the credit for at least taking the courage to do it, like any landlord would do if your home was on fire and you call for the fire brigade -- you do not wait for the fire brigade to come, you deal with the fire with whatever is at your disposal. And I feel that's what the AU did, whether it was enough or not is another question, but they acted responsibly and I want that to register, that AU acted responsibly and, if it happens again, they will do it. This is the African Union and they need to be supported because peacekeeping is a collective

responsibility. It is not the AU's responsibility alone. It is collective. And the AU was doing that on behalf of the international community.

On that note, let me move on to some of the other challenges. Dr. Sarjoh mentioned protection of civilians; this was what I tell you was used to enhance AU capacity on three occasions, because every time the international community said, oh, the AU cannot protect the civilians; they are so vulnerable, so they need more troops. So, AMIS was enhanced to AMIS II, and it's true, and after that they said, oh, it's just an enhancement observer mission. It's not still all over the place, it's not deployed throughout Darfur because as you can imagine Darfur is the size of Botswana, it's big, and having just about 2,000 troops in AMIS II was not enough. So, with the same argument, it was now increased to 7,000.

But I want to say that protection of civilians was at the core of AU's decision to deploy to Darfur because of the humanitarian ceasefire agreement was based on international humanitarian principles, and if you look at the principles, the articles that were quoted in the humanitarian ceasefire agreement, they are based on protecting civilians and securing IDP's and refugees. So, AU recognized the need to protect civilians. Part of what they did not put in place was measures to address them.

So, that is a correction and also the mere presence of the observer mission, which I said was inadequate, but a semblance of stability and security in wherever they were, although it was limited, in whatever area the AU was deployed to, there was a semblance of security and stability. And also, when the police was added, the security was enhanced because they undertook what they call firewood patrols, and that also enhanced security. So, the AU knew what was required. But I believe that the AU did not have the capacity, and that is why we had all this.

And why didn't we have the capacity? We have mentioned here already that one of the problems was that the AU did not have the structure in place. So, force and police generation was a key difficulty for the AU. They could not identify the right caliber of people required for the job. And also because we want to Africanize it so fast, were were just accepting offers from every other country, not necessarily Czech, India, Basrah, whatever had peacekeeping experience, and, therefore, we ended up with people in the mission who could not even communicate with each other.

I give you an example of the police, the civilian police. We brought in people who could speak only Arabic and they could not write and put them with people who could speak only English, not Arabic, and the two could not communicate with each other. So, you used the one who spoke Arabic to speak to the Darfurians and we needed another translator, between that guy and the one who speaks English to write the report. So, this is what was happening and it was a key challenge and that also happened on the military side, but it was very much obvious in the police section.

Now, these people also came with no accommodation, and as you know accommodation is very hard to find because the police concept was, for them, to be independent and not

to stay with the military. And whoever did the assessment for the police obviously did not do the right assessment. A good assessment was that it would live among the population and I wonder whose population they were referring to. So, when the police came to realize it was not doable, we had to change the concept on the ground.

And also I will talk about mandate and use of force. There was this mandate that people said was inadequate. There were two schools of thought. Some thought that a mandate was enough, but it was subject to the interpretation of the commanders on the ground. Some commanders were very, very inflexible and they would look it say, no, I can't do this, and that is why most of the time you saw AMIS patrols being kidnapped and disarmed and there was no shooting back and all that because nobody wanted to take a risk when they weren't sure what was to be done. But thanks to the partners, like the U.N. and the rest, AMIS IIE had a kind of U.N. draft rules of engagement which I believe helped later, after we left the mission. But before then, commanders were having difficulty applying this.

Another key challenge was violations by the parties of the ceasefire agreement and they were not respecting what they had signed and there was no way anybody could punish them, not even the international community, because the CLC would make its reports to the AU and the AU would put it on its Website and the Security Council would have access to it, but that's just where it ended. And the parties knew that they could get away with whatever violations that were committed and that also created a lot of impunity.

And then on the janjaweed. When we arrived, janjaweed was a very sacred word. I mean, nobody what the janjaweed was – very faceless. Everybody was talking about the janjaweed, committing atrocities, so we kept asking, who are the janjaweed? This took us a long time to find out.

Eventually we were able to put names to the janjaweed, but whatever it is, I believe that the janjaweed also had concerns, but the concerns would not be listened to because they had been demonized so much that nobody wanted to listen to them and to find out their concerns.

My sector was the first to link up with the so-called janjaweed leader Musa Hilal, and we were to identify some of the issues that they had and from there we were able to engage further and meet the leaders. We were able to put faces to the names and be able to engage with them. And because of that, we were able to diffuse a lot of potential conflicts that would have erupted because all they needed was to also have attention and this they were not getting from the international community.

And I believe that was one of the international community's mistakes and one thing that would paralyze the AU was what I call, lack of intelligence. The AU was not equipped with intelligence and, therefore, we did not know much about what was happening. So, we could not analyze the information that was filtering in, and I call that data paralysis. That really crippled the mission and because of the special arrangement that we had with

the parties sharing every session with us, there was nothing secret. Every information that you passed on was known to the parties, so you couldn't hide anything.

And there's a day I call the sad day of a commander in my life, where I had to negotiate the release of Arab abductees and, because I had no helicopter, I had to send a message for the helicopter to be sent to me. When the message went to helicopter, it was announced at the morning briefing that a helicopter would be dispatched to Kabkabiya, that's to me, to go and do this negotiation. So the government of Sudan guy who was there, he just took his phone and called wherever we were going, that we are coming, and the abductees would be there with the SLA commander. And when we arrived, guess what happened? I was in the helicopter, watching live, the slaughtering of those guys. The Arabs and the janjaweed -- they had rushed on the place, and we could not land because it was too dangerous. They were firing at us, and the pilot says, we have to leave, we are not protected.

The following day I had to ask to attend the funeral general, I had to go back there and bury that guy. This, I think that could have been avoided if this weird arrangement had not existed in the AU. And, therefore, that is one of the issues we raised with AU/PSC BSE, and that is why eventually they were removed from the sectors. So, this was all the initial but there were without costs.

Now, one important thing that was also mentioned was AU partners. I think without our partners, we could not have done anything and I think we are very grateful to all the partners. They helped in many, many ways. They helped in giving us training, they helped in giving us resources, cars, and everything, but one thing that I didn't like about a partner was that a lot of the support that was coming was not consulted with the AU. You would be in Addis Ababa or Khartoum and said, this is what we are coming to do, and you don't know whether we are ready for it or not.

And I give an example where UNDP approached me that they were going to enhance the capacity of the police, which we hadn't even set up yet, with \$2 million that Japan was giving. And I said, how do I know what to do with it unless we establish the police and that's an example of how partners come with some of these things.

Another area of the partners failed grossly to address was in the finance area. They were accusing the AU of corruption; they were accusing the AU of incapacity to manage the huge amount of money that they were given the AU at a time, and the AU had only two staff managing the finances, who were used to managing small amounts of money, and know they were managing millions, and they were expected to account for it in accordance with EU procedures that they didn't know about.

So, I kept asking them, when I went to Geneva, I told the EU, I said, could you invite these people and train them or build their capacity? EU was not doing that. They would send people in all other areas to build capacity protocol and the rest, but as far as finance they were not sending that. And therefore, the money could be sitting in Addis, and troops would not be paid for months.

So, there were so many lapses I believe that could have been addressed, and this later has been addressed through the partners group that was established in Addis. And I think that went a long way to address some of these things.

But surprisingly, I also want to tell you that the AU also assisted the U.N. When we deployed in AMIS there was no U.N. presence in Addis. So, for U.N. to have information from Darfur, they had to consult the AU.

Not only that, we assisted the human rights offices and we embedded them in the sectors so that they could visit scenes, because they couldn't go there by themselves and we had to draft what we call a concept note with the AMIS, signed by the SRSG and also the SRCC of AMIS. And that is how we assisted AMIS to get up-to-date reports for the Council.

And we also assisted the U.N. panel of experts by giving them helicopters and giving them information and getting them to the right places and also assisted in creating humanitarian space. So, I believe the AMIS was not only dependent on the committee they also helped the international community to really understand Darfur

And I'm on record as being one of the first to establish that there was collaboration between the janjaweed and the government because I was interviewed in a Panarama program in 2004 where I said there was enough evidence to show that.

And so the AMIS presence in Darfur really helped to shed the thinking and understanding of the international community. And one of the key developments, I believe, achievement was that the AU itself, even though wanted to do what it did, it didn't have the capacity, but its mere presence also gives the international community a foothold in Darfur. And that is what we've built on today, to have UNAMID. As you know the background. I'm not going to go into the details, but the transition was very difficult and torturous; everybody knows that. We had to go through AMIS support, light support package, heavy support package.

I led a delegation here, but then I'd moved to New York, so I happened to be on the other side and I went to AU, Addis Ababa, to negotiate the light support package and, after that, we flew it on with heavy support package before we finally ended up with what we have today, UNAMID. It is a complex arrangement, and I don't think people will want to have it repeated because it's tough. You have two organizations trying to work together and different structures is very difficult. I personally would rather prefer it is done by one organization; that's my personal preference, but I just have different views.

But one thing that I would like to leave with you is that we have to remember while we criticize AU and blame them for everything, I think we should remember the child's first steps, as I mentioned before. You see, if you look at a child when he starts the first steps and the parent, they understand that this child is going to make mistakes, but the parents do not just criticize or chastise, they encourage, and I believe that is very important for us

to remember that AU's first steps. AU was barely one year, compared to U.N., which had done 50 plus years in peacekeeping, so to compare the two organizations is unfair and we have to understand that. And AU should focus on this first step, and begin, like a baby, AU should fix its sights on this near target. It should cut its costs according to its sight, because it has capacity problems.

So, AU should begin to cut its costs according to its size and shouldn't compare itself to the U.N. It should learn from the U.N., but not compare and not try to compete, and it should not stop moving. It should continue to maintain this momentum, because it will never go away. The international community represented by the U.N. will always delay before they come, so you have to prepare to deal with the problem yourself, and AU has to understand this. If AU doesn't do it, the subregions would just take over because they are moving faster than AU and are not going to wait for the AU and I believe that AU has realized this.

So, AU is going to, we need the AU to build its capacity in that direction and we have to use the steps to empower itself, so that by practicing momentum will become a habit for the AU. Yes, the AU must have strategic and operational goals, which provide basis for lessons learned today and I was wondering whether today's forum should not have been called, instead of being called Darfur Forum, it should have been called, Lest We Forget, because we have done a lot of lessons already, so maybe we should have appropriately called today's, Lest We Forget, and with hindsight and given the context in which AU deployed. And having participated in AU myself and now on this side, I believe AU didn't do badly at all. They have done their bit. They've paid their dues and they need to be supported to move forward. Thank you.

John L. Hirsch: Well, thank you very much. Thanks to all three of you very much. And, in fact, not only lest we forget, but I think somehow listening to all three of you, sort of, the challenge for the U.N. and the AU is to somehow capture all these experiences and not in a negative sense to criticize, but to say, what can be done in planning the next missions, wherever they may happen to be, to learn from those experiences and find ways to do better. I want to kind of open this up. We've got about 25 minutes, not a lot of time. So, what I'd like to ask you to do, please, please, is a very short question, not a speech, please, and just identify yourself and then I'm going to turn back to the panel. Go ahead. And identify yourself. Very short questions, please.

Hassan Hamid Hassan: Thank you, Mr. Chairman. Mr. Counselor Hassan, from Sudan Mission. Appreciate inviting me here as a counsel to attend this forum. I limit myself to the three minutes, if I could...

John L. Hirsch: No, no, not three minutes. A question.

Hassan Hamid Hassan: Questions.

John L. Hirsch: Please ask a question.

Hassan Hamid Hassan: Starting with question one, having leaving the scene of the forum itself, where is the provisions of Chapter 8 of the United Nations Charter: Whenever there is an organization taking care of issues concerning maintaining peace and security and its area? Flashback of this is what has been said by Mr. Seth involving specifically challenging areas, AMIS was doing the job 2004-2007.

Second question will be: Where to start? To Mr. Bah, don't you feel that you have gone so far in just portraying the AU as an institution representing 53 countries just only on the chairman as if the decision of the AU is just a decision of the chairman, having in mind that the AU is a well-built institution? And also a flashback of that is that all the decisions concerning ICC namely is being taken by the Peace and Security Council before it is being upgraded to the level of the summit.

The third and the last question to the very distinguished speakers. I agree with all that you mentioned about the political process, but where is the role of the international community? Having in mind the regional countries did their best, and the result is now on hand, you can see clearly in the political process of Dohar. But where is the role of the international communities, especially with regard to the leaders who declare clearly that they are not ready to join the political process. What is the role of the international community, having in mind also it is a resolution occupied by the Security Council calling on the parties to join the political process or they will face sanctions because they are impeding the political process. I'm talking namely about the...

John L. Hirsch: Okay. Excuse me, excuse me. Thank you very much. Let's have Joanna and then Patrick and then one more, the lady here, and then we'll come back to the panel.

Joanna Weschler: Thank you. I wanted to ask a question. Joanna Weschler, Security Council Report. I wanted to ask a question about the negotiation aspect of what we were hearing and then Sarjoh described how extremely inadequate the participants in the Abuja negotiations were when they arrived, that it was almost in some cases like a lifestyle decision to participate or not. The same came from Commander Appiah-Mensah. What is the answer? What do you do? Is it better not to start the negotiations? Was it in retrospect a mistake to start those negotiations when they were started? We all remember what kind of pressure was coming from New York to start negotiations, to conduct, continue negotiations and then to conclude negotiations. Would it have been better not to do it when it was done? I don't know what the answer is. I would very much like to hear it.

John L. Hirsch: All right. Thank you, Patrick Hayford and then the lady in the third row.

Patrick Hayford: Thank you very much. Just a straightforward question to the panelists. What are the prospects for agreement on some of the ideas of the Prodi Purdue Report? In other words, what are the prospects that the international community will find a way to better finance African peacekeeping?

John L. Hirsch: Okay. And then, madam, no, excuse me, the lady in the third row, please.

Karen Mosoti: Thank you. I'm Karen Mosoti from the ICC Liaison Office to the U.N. I have two very short questions to Mr. Bah because you spoke extensively about the role of justice.

My first question relates to the issue of Article 16 and your comment that the African Peace and Security Council feels that the Security Council did not act on the request for a deferral. My question to you is, to the best of my recollection, I do not remember the African Union actually tabling a formal resolution or draft of some kind for the Security Council for action. There was a lot of talk in the U.N. corridors about the deferral, but no formal tabling of it was made. So, how would you expect the Security Council to make a decision on an issue that was not formally tabled before it?

And my second question, which is related to that, but a bit different relates to the issue raised on the dilemma between peace and justice, and I would like to recollect that I think a lot of the actors you mentioned in your presentation, including the Mbeki Panel, the African Peace and Security Council, the U.N. Secretary-General, I think they have repeatedly acknowledged that peace and justice must go hand in hand, which means that justice must be an essential component of any comprehensive based purpose.

Now, in relation to the request for a deferral and bearing in mind the complimentary provisions in their own study of the ICC, I wonder whether in the case of Darfur, you would think if the Security Council made a deferral at this point in time, it would serve the interest of justice, especially when there is no alternative functioning or alternative system of justice.

John L. Hirsch: Okay. And finally, let's, before we come back, would you Ambassador Antonio from the African Union. If we have time, we'll have a second round.

H.E. Mr. Tête António: Chair, since there is no statement, I would just ask. It's almost difficult for a representative of the African Union not to make a statement, but I will do so. I will just ask a question to my good friend, Ibok. Taking account his experience on mediation, I would like to hear from him which adviser he would like to provide to those who are involved in the same process, if he may have identified some weakness or maybe some strong sides of mediation ammunition today. So, I would like to hear from Mr. Ibok.

Second, I do thank Mr. Appiah for his concluding remarks. I think it is what his statement I could make if I was allowed to do so. Mr. Bah, Mbeki Panel, I think Mbeki Panel can respond to a question. We, on the African Union perspective, we had the impression that Sudan was almost like a body, which, let's call, animal or insects, are biting from many sides. So, there was the need to have a comprehensive approach and it is this question the Mbeki Panel tried to respond to. I think we don't have time and I have to leave. So, those are my remarks.

John L. Hirsch: I really appreciate your understanding that if we all made statements we'd be here until 5 in the afternoon, so I really thank you for your questions and, gentlemen, if you could give us, sort of, a short compressed answer and not feel that each of you has to answer every single question, we can then get in maybe a second round. So, Sarjoh.

Dr. A. Sarjo Bah: Well, thank you very much. I think these are all very good questions and while we are dodging some of them, it's not to say a lot.

Chapter 8 of the charter is there. There was a report a couple of years ago; I'm not really sure what has happened to that. It's probably one of those U.N. reports on how to enhance cooperation between the U.N. and the regional organizations. I'm yet to see much coming out of that, but there are people who are closer to that issue.

On the question of the chair. Yes, there are 53 members in the AU, but I don't think anyone will dispute the fact that the chair of the AU has a great deal of power and, as Mr. Ibok said, they ended up in Abuja because President Obasanjo was the chair, without any thinking, without any other dynamics. And if you look at the July decision in Libya, not to cooperate with the ICC, I mean, we've seen some people have disputed it based on procedural issues, somewhat more substantive issues. So, I think that is really a moot point with respect to... you have a lot of countries, but we know how the politics operate on the Continent and elsewhere when you have multi-lateral organizations like that. So, I think the chair's rule is critical and we've seen that in the case of when Nigeria was the chair, when South Africa was the chair, and when Libya was the chair, and now we're waiting to see what Malawi will offer us.

On the question of negotiations, Joanna. I think the only thing I'll say is, don't take it too lightly. The way the Abuja peace talks were approached was, get this guy to Abuja, get them together, talk, and tomorrow we want an agreement. So, what some people have called 'deadline diplomacy,' and the mistake is being repeated now in Dohar, where they are saying we need to reach an agreement before the elections on the 7th of July -- it's not realistic. You cannot truss out all the issues before July.

And they are saying, well, if we don't deal with it, the attention is shifting; CNN is now talking about the north/south, and not Darfur. So, the imperatives that drive mediation, I think, should be, as Mr. Ibok said, be from the grassroots. What is happening on the ground? And if we took it too lightly -- Ireland too forever to negotiate and they're still dealing with it. But when you talk about negotiations in Africa, in most cases, is a big bang approach. Get in there, sort it out, and move on. You guys have more serious issues to talk about. I think I would say, take it a bit more seriously.

Article 16 -- I think the PSC made a request and there are documents to that effect, that they really tried to engage the Security Council on this and all they got was really a deafening silence. They were essentially snubbed by what they see the Security Council as a counterpart of sorts. I mean, if they are the junior brother in this partnership, they are making critical decisions on the Continent.

On the question of whether peace should come before justice or justice before peace. I think the AU has been clear and Mr. Ping made it very clear that they should be not allowed to collide and those were his words, that peace and justice should not collide; one should not be given preferential treatment over the other, so timing and sequence is critical, and I think that has been the position of the PSC, which I largely agreed with. Because if you look at what the ICC is trying to do now, when are you going to get President Bashir? It's not going to happen tomorrow morning. I mean, you have a lot of other issues to deal with and I think, to me, the issue that is not for this forum is the ICC is now suffering credibility issues. Look at the whole Lubanga case was bungled, Abu Gadar walked away, the whole Bashir, they brought three charge.

So I think there are credibility issues also for the court, that it needs to confront at the Continent level and the deferral, would it have suffered because, I think so. Because at the moment it is totally useless. You have the case there, you're going after a sitting president; you have no mechanism to enforce it. And if you don't have that, I think it just adds a complicated, an unwanted intervention at that particular moment.

On the Mbeki Panel -- Ambassador, I totally agree with you that this was an attempt that was driven also part of the AU's concerns that the principle of universal jurisdiction has been abused. You have judges in Europe, Spain, and France who will wake up and indict President Kagame and his entire government. So, the principle of universal jurisdiction. So, what the AU's trying to do is to really try and take in all these, sort of, judicial activities, human rights activities that we have seen mostly concentrated on the Continent and the Mbeki Panel, in a way I think, did a very terrific job at trying to really deal with this very delicate balance, a very delicate dance -- (A) You don't want to be seen on the side of saying you don't want justice or you don't want peace, but you have to really be very strategic on how you go about it. If you try to do the two at the same time, as we've seen in Sierra Leone, the special court has more prominence than the Truth and Reconciliation Commission. Most people don't even know we had a Truth and Reconciliation Commission because everybody was interested in the special court and having Mr. Taylor come to the Hague. But other than Taylor, I would tell you as a Sierra Leonean, I think the entire special court experiment is a disaster. I will leave it at that.

John L. Hirsch: Great. Sam.

Mr. Sam Ibok: Thank you. I think I'll just try to focus on one or two issues, which I've raised. The first one is what is the role of the international community, and I think my brother from the Sudan Mission had raised this issue. I think when you ask the question: What is the role of the international community, you should also ask the counter question: What is the role of the Sudanese government? What is the role of the Sudanese themselves? We cannot continuously blame others for the problems we have ourselves generated. And, I mean, the situation is involving now because Chad and the Sudan have decided to stop the support which they have been giving to the rebels from each of their countries. For a very long time, throughout the negotiations, Chad was supporting the

rebels from Darfur – JEM and SLM and the others -- and for a very long time, Sudan was extending support to the Chadian rebels who were operating out of the Sudan.

Now, the two countries have come together. They have agreed that they are not going to support each other's rebellion anymore and you have seen the difference.

I think by the same token, by extension, you should also look at the role of countries, like France. Abdul Wahid is in France. The best thing that France can do is to leverage the process to encourage Abdul Wahid to join the process, because it doesn't make sense to have the political process, which will involve JEM. You will have an agreement, like you had [indiscernible] sign an agreement. Killili Bahrain will sign an agreement, Abdu Whyan will be out of it. So, you don't have the comprehensive piece in the Sudan and that is part of the problem of negotiating peace in the Sudan because there's a lot of compartmentalization. You have the CPA. You have the DPA. You have the Kordofan agreements. You have all kinds of agreements that don't come together and you need one agreement for the Sudan.

The second issue is: What is the current process? What is the advice? I don't have any advice. I think these people know what they are doing, but I'll be surprised if there will be peace in the Sudan if three critical components are not addressed. One is what I call the 'symbolic victory,' the issue of the vice-presidency for Darfur. Two is the issue of the creation of a region for Darfur. That makes them feel... because Darfur was an empire before, it was established as a region before. And then the third one is the issue of compensation. There is no way that you will move forward with a resolution of the crisis unless the issue of compensation for the damages are addressed. Thank you.

John L. Hirsch: Thank you. Please, Seth.

Seth Appiah-Mensah: Thank you. Two quick points. Joanna, about negotiation, I think not starting the negotiations isn't an option, and I think we really have to go ahead with it, but the point I was trying to make was if negotiation is a skill, then we need to also prepare, also go out and negotiate. In the Nuba mountains in Sudan, when they were having the ceasefire agreement, they sent the party leaders to Norway and prepared them, and that made a lot of difference, and we were supposed to learn from that, because that happened before the Darfur one and we just got a bunch of people who did not anything about even the political part of the organization, to go and negotiate a very complex document. I don't if you have all seen the DPA. I mean, it took me awhile to really digest what is in the DPA, so for somebody, a lot of them who are drop-outs. I mean, it's difficult for them to really understand and they saw that the government was far ahead and because the government had the leverage. So, I believe we need to bring them on par, in a way, by preparing them, if we are going to engage in negotiation.

And on peace and justice, my personal view is that we should, I think we should try and defer to the regional organizations now because what happened in Darfur, I remember when making the same debate, justice before peace, because the fighting was still going on, they were after the leaders, trying to indict them, and it wasn't helping, because it

tends to harden the opposition, and I remember there was a janjaweed leader who was even going around trying to get peace, I mean, make peace with the people and when he heard that he had been indicted, he changed his position. So, I think we should be sensitive to the regional concerns when we are doing such things, but balance them properly. Thank you.

John L. Hirsch: Ladies and Gentlemen, it is just a minute before 2:45 and with your understanding, I'm going to, sort of, end the session, because I promised that to my inspirers at IPI who make all this happen. We obviously had the three speakers speak a little longer and, therefore, shortened up a little bit of discussion, but we learned an enormous amount from the three of you, and I think the theme you struck about lest we forget that the point of all this is not to belabor the shortcomings of either the U.N. or the AU; in fact, I think both of them have done yeoman service in a very, very difficult set of circumstances and we should, sort of, really commend the U.N. and the AU for what they're trying to do to bring peace to Sudan. So, I'd like to, on behalf of all of you, to thank our three speakers and let's give them all a big hand.

[Applause]