

No. 44760*

**African Union, Sudan
and
United Nations**

Agreement between the United Nations and the African Union and the Government of Sudan concerning the status of the African Union/United Nations Hybrid Operation in Darfur. Khartoum, 9 February 2008

Entry into force: *9 February 2008 by signature, in accordance with paragraph 62*

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**Union africaine, Soudan
et
Organisation des Nations Unies**

Accord entre l'Organisation des Nations Unies et l'Union africaine et le Gouvernement du Soudan relatif au statut de l'Opération hybride Union africaine-Nations Unies au Darfour. Khartoum, 9 février 2008

Entrée en vigueur : *9 février 2008 par signature, conformément au paragraphe 62*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE UNITED NATIONS AND THE AFRICAN UNION
AND SUDAN
CONCERNING THE STATUS OF THE
AFRICAN UNION/UNITED NATIONS HYBRID OPERATION IN DARFUR**

I. DEFINITIONS

1. For the purpose of the present Agreement the following definitions shall apply:

(a) “UNAMID” means the African Union/United Nations hybrid operation in Darfur, established in accordance with United Nations Security Council resolution 1769 (2007) of 31 July 2007 and the Communiqué of the 79th Meeting of the African Union Peace and Security Council held on 22 June 2007. UNAMID shall consist of:

(i) the “Joint Special Representative” appointed by the Secretary-General of the United Nations and the Chairperson of the African Union Commission. Any reference to the Joint Special Representative in this Agreement shall, except in paragraph 26, include any member of UNAMID to whom he or she delegates a specified function or authority;

(ii) a “civilian component” consisting of United Nations officials and of other persons assigned by the Secretary-General and African Union officials assigned by the Chairperson of the African Union Commission to assist the Joint Special Representative or made available by participating States to serve as part of UNAMID;

(iii) a “military component” consisting of military and civilian personnel made available to UNAMID by participating States at the request of the Secretary-General and Chairperson of the African Union Commission;

(b) a “member of UNAMID” means the Joint Special Representative of the Secretary-General and Chairperson of the African Union Commission and any member of the civilian or military components;

(c) “the Government” means the Government of the Republic of Sudan;

(d) “the territory” means the territory of the Republic of Sudan;

(e) a “participating State” means a State providing personnel, services, equipment, provisions, supplies, materials and other goods, including spare parts and means of transport, to any of the above-mentioned components of UNAMID;

(f) “the Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which Sudan is a Party;

(g) “contractors” means persons, other than members of UNAMID, engaged by the United Nations, including juridical as well as natural persons and their employees and sub-contractors, to perform services for UNAMID and/or to supply equipment, provisions, supplies, materials and other goods, including spare parts and means of transport, in support of UNAMID activities. Such contractors shall not be considered third party beneficiaries to this Agreement;

(h) “vehicles” means civilian and military vehicles in use by the United Nations and operated by members of UNAMID, participating States or contractors in support of UNAMID activities;

(i) “vessels” means civilian and military vessels in use by the United Nations and operated by members of UNAMID, participating States or contractors in support of UNAMID activities;

(j) “aircraft” means civilian and military aircraft in use by the United Nations and operated by members of UNAMID, participating States or contractors in support of UNAMID activities.

II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government or any privilege, immunity, facility or concession granted to UNAMID or any member thereof or to contractors shall apply in Darfur and in other parts of the Sudan including at points of entry and exit at which UNAMID is operating.

III. APPLICATION OF THE CONVENTION

3. UNAMID, its property, funds and assets and its members, including the Joint Special Representative, shall enjoy the privileges and immunities specified in the present Agreement as well as those provided for in the Convention.

4. Article II of the Convention, which applies to UNAMID, shall also apply to the property, funds and assets of participating States used in connection with UNAMID.

IV. STATUS OF UNAMID

5. UNAMID and its members shall act in a manner that is consistent with UNAMID’s mandate as set out in Security Council resolution 1769 (2007) of 31 July 2007 and the Communiqué of the 79th Meeting of the African Union Peace and Security Council held on 22 June 2007 and refrain from any action or activity incompatible with the impartial and international nature of their duties or that is inconsistent with the spirit of the present arrangements. UNAMID and its members shall respect relevant rules and principles of international law as well as all local laws and regulations. The Joint Special Representative shall take all appropriate measures to ensure the observance of these obligations.

6. Without prejudice to the mandate of UNAMID and its international status:

(a) The African Union and United Nations shall ensure that UNAMID shall conduct its operation in Sudan with full respect for the principles and rules of the international humanitarian law conventions applicable to the conduct of military personnel. These international conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 and the UNESCO Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict.

(b) The Government undertakes to treat at all times the military personnel of UNAMID with full respect for the principles and rules of the international conventions applicable to the treatment of military personnel. These international conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

UNAMID and the Government shall ensure accordingly that members of their respective military personnel are fully acquainted with the principles and rules of the above-mentioned international instruments.

7. The Government undertakes to respect the exclusively international nature of UNAMID.

United Nations and African Union flags, markings and identification

8. The Government recognizes the right of UNAMID to display the United Nations and African Union flags on its headquarters, camps or other premises, vehicles, vessels and otherwise as decided by the Joint Special Representative. Other flags or pennants may be displayed only in exceptional cases. In such cases, UNAMID shall give due consideration to observations or requests of the Government.

9. Vehicles, vessels and aircraft of UNAMID shall carry distinctive United Nations identification, which shall be notified to the Government. In addition, vehicles of UNAMID shall carry distinctive UNAMID identification which shall also be notified to the Government.

Communications

10. UNAMID shall enjoy the facilities in respect to communications provided in Article III of the Convention. Issues with respect to communications which may arise and which are not specifically provided for in the present Agreement shall be dealt with pursuant to the relevant provisions of the Convention, the International Telecommunication Convention and applicable regulations in Sudan as promulgated and specifically notified to UNAMID by the Government to the extent that such regulations are not inconsistent with the provisions of either convention.

11. Subject to the provisions of paragraph 10:

(a) UNAMID shall have the right to establish, install and operate United Nations radio stations under its exclusive control to disseminate to the public in Sudan information relating to its mandate. Programmes broadcast on such stations shall be under the exclusive editorial control of UNAMID and shall not be subject to any form of censorship. UNAMID will make the broadcast signal of such stations available to the state broadcaster upon request for further dissemination through the state broadcasting

system. Such United Nations radio stations shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such stations may operate shall be decided upon in cooperation and consultation with the Government. If no decision has been reached fifteen (15) working days after the matter has been raised by UNAMID with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. UNAMID shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use.

(b) UNAMID shall have the right to disseminate to the public in Sudan information relating to its mandate through official printed materials and publications, which UNAMID may produce itself or through private publishing companies in Sudan. The content of such materials and publications shall be under the exclusive editorial control of UNAMID and shall not be subject to any form of censorship. UNAMID shall however consistent with its mandate seek to respect local cultures, norms and traditions. UNAMID shall be exempt from any prohibitions or restrictions regarding the production or the publication or dissemination of such official materials and publications, including any requirement that permits be obtained or issued for such purposes. This exemption shall also apply to private publishing companies in Sudan which UNAMID may use for the production, publication or dissemination of such materials or publications.

(c) UNAMID shall have the right to install and operate radio sending and receiving stations, as well as satellite systems, in order to connect appropriate points within the territory of Sudan with each other and with United Nations offices in other countries, and to exchange telephone, voice, facsimile and other electronic data with the United Nations global telecommunications network. Such telecommunication services shall be operated in accordance with the International Telecommunication Convention and its Regulations. UNAMID shall also respect Government regulations for the operation of radio sending and receiving stations, as well as satellite systems, as promulgated and specifically notified to UNAMID by the Government, provided that such regulations are not inconsistent with this Agreement or the International Telecommunication Convention and its Regulations and do not interfere with UNAMID's operations and the inviolability of its communications. The frequencies on which such services may operate shall be decided upon in cooperation with the Government. UNAMID shall refrain from using any frequencies allocated to other users within Sudan as specifically notified to UNAMID by the Government or use frequencies other than those allocated to it by the Government. If no decision has been reached fifteen (15) working days after the matter has been raised by UNAMID with the Government, the Government shall immediately allocate suitable frequencies to UNAMID for this purpose. UNAMID shall be exempt from any taxes on and fees for the allocation of frequencies for this purpose, as well as from any taxes on or fees for their use. UNAMID shall provide to the Government from time to time updated lists of its communications equipment.

(d) UNAMID shall enjoy, within the territory of Sudan, the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, electronic mail, facsimile or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of UNAMID.

including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The Government shall, within fifteen (15) working days of being so requested by the UNAMID, allocate suitable frequencies to UNAMID for this purpose. UNAMID shall be exempt from any taxes on and fees for the allocation of frequencies for this purpose, as well as from any taxes on or fees for their use. Connections with the local system of telephone, facsimile and other electronic data may be made only after consultation and in accordance with arrangements with the Government. Use of the local system of telephone, facsimile and other electronic data shall be charged at the most favourable rate.

(e) UNAMID may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of UNAMID. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of UNAMID or its members. In the event that postal arrangements applying to private mail of members of UNAMID are extended to transfer of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

Travel and transport

12. UNAMID, its members and contractors, together with their property, equipment, provisions, supplies, materials and other goods, including spare parts, as well as vehicles, vessels and aircraft, including the vehicles, vessels and aircraft of contractors used exclusively in the performance of their services for UNAMID, shall enjoy full and unrestricted freedom of movement without delay throughout Darfur and other areas of Sudan where UNAMID is operating in accordance with its mandate by the most direct route possible, without the need for travel permits or prior authorization or notification, except in the case of movements by air, which will comply with ICAO safety regulations and the customary procedural requirements for flight planning and operations within the airspace of Sudan as promulgated and specifically notified to UNAMID by the Civil Aviation Authority of Sudan. This freedom shall, with respect to large movements of personnel, stores, vehicles or aircraft through airports or on railways or roads used for general traffic within Sudan, be coordinated with the Government. The Government shall, where necessary, provide UNAMID with maps and other information, including maps of and information on the location of minefields and other dangers and impediments, which may be useful in facilitating UNAMID's movements and ensuring the safety and security of its members.

13. Vehicles, vessels and aircraft shall not be subject to registration or licensing by the Government, it being understood that all vehicles shall carry third party insurance. UNAMID shall provide to the Government from time to time updated lists of UNAMID vehicles.

14. UNAMID and its members and contractors, together with vehicles, vessels and aircraft, including vehicles, vessels and aircraft of contractors used exclusively in the performance of their services for UNAMID, may use roads, bridges, rivers, canals and other waters, port facilities, airfields and airspace without the payment of any form of monetary contributions, dues, tolls, user fees, airport taxes, parking fees, overflight fees, port fees or charges, including wharfage and compulsory pilotage charges. However, UNAMID and its contractors will not claim exemption from charges which are in

fact charges for services rendered, it being understood that such charges shall be charged at the most favourable rates.

Privileges and immunities of UNAMID

15. UNAMID, as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the United Nations in accordance with the Convention. The provisions of Article II of the Convention which apply to UNAMID shall also apply to the property, funds and assets of participating States used in Sudan in connection with the national contingents serving in UNAMID, as provided for in paragraph 4 of the present Agreement. The Government recognizes in particular:

(a) The right of UNAMID, as well as of contractors, to import, by the most convenient and direct route by sea, land or air, free of duty, taxes, fees and charges and free of other prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of UNAMID or for resale in the designated commissaries provided for below. For this purpose, the Government agrees expeditiously to establish, at the request of UNAMID, temporary customs clearance facilities for UNAMID at locations in Sudan convenient for UNAMID not previously designated as official ports of entry for Sudan.

(b) The right of UNAMID to establish, maintain and operate commissaries at its headquarters, camps and posts for the benefit of the members of UNAMID, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified and notified in advance to the Government. The Joint Special Representative shall take all necessary measures to prevent abuse of such commissaries and the sale or resale of such goods to persons other than members of UNAMID and shall give due consideration to observations or requests of the Government concerning the operation of the commissaries;

(c) The right of UNAMID, as well as of contractors, to clear ex customs and excise warehouse, free of duty, taxes, fees and charges and free of other prohibitions and restrictions, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, which are for the exclusive and official use of UNAMID or for resale in the commissaries provided for above;

(d) The right of UNAMID, as well as of contractors, to re-export or otherwise dispose of such property and equipment, including spare parts and means of transport, as far as they are still usable, and all unconsumed provisions, supplies, materials, fuel and other goods so imported or cleared ex customs and excise warehouse which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of Sudan or to an entity nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation, shall be agreed between UNAMID and the Government at the earliest possible date. In particular, UNAMID agrees that all such imported materials will be notified in advance to the Government for customs clearance.

V. FACILITIES FOR UNAMID

Premises required for conducting the operational and administrative activities of UNAMID

16. The Government shall provide without cost to UNAMID when possible and in agreement with the Joint Special Representative for as long as may be required such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of UNAMID, including the establishment of the necessary facilities for maintaining communications in accordance with paragraph 11. Without prejudice to the fact that all such premises remain territory of Sudan, they shall be inviolable and subject to the exclusive control and authority of the United Nations and African Union. The Government shall guarantee unimpeded access to such premises. Where UNAMID troops are co-located with military personnel of the host country, a permanent, direct and immediate access by UNAMID to those premises shall be guaranteed.

17. The Government undertakes to assist UNAMID in obtaining and making available, where applicable, water, sewerage, electricity and other facilities free of charge, or, where this is not possible, at the most favourable rate, and free of taxes, fees and duties. Where such utilities or facilities are not provided free of charge, payment shall be made by UNAMID on terms to be agreed with the competent authority. UNAMID shall be responsible for the maintenance and upkeep of facilities so provided. In the event of interruption or threatened interruption of service, the Government undertakes to give as far as is within its powers the same priority to the needs of UNAMID as to essential government services.

18. UNAMID shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity.

19. UNAMID alone may consent to the entry of any persons who are not members of UNAMID to such premises.

Provisions, supplies, services, and sanitary arrangements

20. The Government agrees to grant promptly, upon presentation by UNAMID or by contractors of a bill of lading, airway bill, cargo manifest or packing list, all necessary authorizations, permits and licenses required for the import of equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, used in support of UNAMID, including in respect of import by contractors, free of any restrictions and without the payment of monetary contributions or duties, fees, charges or taxes, including value-added tax. The Government likewise agrees to grant promptly all necessary authorizations, permits and licenses required for the purchase or export of such goods, including in respect of purchase or export by contractors, free of any restrictions and without the payment of monetary contributions, duties, fees and taxes.

21. The Government undertakes to assist UNAMID as far as possible in obtaining equipment, provisions, supplies, fuel, materials and other goods and services from local sources required for its subsistence and operations. In respect of equipment, provisions, supplies, fuel, materials and other

goods and services purchased locally by UNAMID or by contractors for the official and exclusive use of UNAMID, the Government shall make appropriate administrative arrangements for the remission or return of any excise, tax or monetary contribution payable as part of the price. The Government shall exempt UNAMID and contractors from general sales taxes in respect of all local purchases for official use. In making purchases on the local market, UNAMID shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

22. For the proper performance of the services provided by contractors, other than Sudan nationals resident in Sudan, in support of UNAMID, the Government agrees to provide contractors with facilities for their entry into and departure from Sudan, without delay or hindrance, and for their residence in Sudan, as well as for their repatriation in time of crisis. For this purpose, the Government shall promptly issue to contractors and as expeditiously as possible, free of charge and without any restrictions all necessary visas, licenses, permits and registrations. Contractors, other than Sudan nationals resident in Sudan, shall be accorded exemption from taxes and monetary contributions in Sudan on services, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, provided to UNAMID, including corporate, income, social security and other similar taxes arising directly from or related directly to the provision of such services or goods.

23. UNAMID and the Government shall co-operate with respect to sanitary services and shall extend to each other their fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international law.

Recruitment of local personnel

24. UNAMID may recruit locally such personnel as it requires. Without prejudice to UNAMID's exclusive right to recruit such local personnel as it requires, UNAMID shall take account of any relevant observations made and information provided on the local population. Upon the request of the Joint Special Representative, the Government undertakes to facilitate the recruitment of qualified local staff by UNAMID and to accelerate the process of such recruitment.

Currency

25. The Government undertakes to make available to UNAMID, against reimbursement in mutually acceptable currency, local currency required for the use of UNAMID, including the pay of its members, at the prevailing commercial rate of exchange.

VI. STATUS OF THE MEMBERS OF UNAMID

Privileges and immunities

26. The Joint Special Representative, the Commander of the military component of UNAMID and such high-ranking members of the Joint Special Representative's staff as may be agreed upon with the Government shall have the status specified in Sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by international law.

27. Officials of the African Union and the United Nations assigned to the civilian component to serve with UNAMID, as well as United Nations Volunteers, who shall be assimilated thereto, shall have the status of officials of the United Nations entitled to the privileges and immunities of Articles V and VII of the Convention.

28. Military observers, military liaison officers, civilian police and civilian personnel other than African Union and United Nations officials whose names are for that purpose notified to the Government by the Joint Special Representative shall be considered as experts on mission within the meaning of Article VI of the Convention.

29. Military personnel of national contingents assigned to the military component of UNAMID shall have the privileges and immunities specifically provided for in the present Agreement.

30. Locally recruited personnel of UNAMID shall enjoy the immunities concerning official acts and exemption from taxation and immunity from national service obligations provided for in Sections 18 (a), (b) and (c) of the Convention. UNAMID agrees that when employing locally recruited personnel who are nationals of Sudan, it shall notify the Government of when that employment begins and ends. The Government agrees, upon notification from UNAMID, to exempt the individual from national service requirements for the duration of the individual's service with UNAMID.

31. Members of UNAMID shall be exempt from taxation on the pay and emoluments received from the United Nations or from a participating State and any income received from outside Sudan. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

32. Members of UNAMID shall have the right to import free of duty their personal effects in connection with their arrival in Sudan. They shall be subject to the laws and regulations of Sudan governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Sudan with UNAMID. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for all members of UNAMID, including the military component, upon prior written notification. On departure from Sudan, members of UNAMID may, notwithstanding the above-mentioned exchange regulations, take with them such funds as the Joint Special Representative certifies were received in pay and emoluments from the United Nations or from a participating State and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of the Government and the members of UNAMID.

33. The Joint Special Representative shall cooperate with the Government and shall render all assistance within his power in ensuring the observance of the customs and fiscal laws and regulations of Sudan by the members of UNAMID, in accordance with the present Agreement.

Entry, residence and departure

34. The Joint Special Representative and members of UNAMID shall, whenever so required by the Joint Special Representative, have the right to enter into, reside in and depart from Sudan.

35. The Government undertakes to facilitate the entry into and departure from Sudan, without delay or hindrance, of the Joint Special Representative and members of UNAMID and shall be kept informed of such movement. For that purpose, the Joint Special Representative and members of UNAMID shall be exempt from passport and visa regulations and immigration inspection and restrictions, as well as from payment of any fees or charges on entering into or departing from Sudan. They shall also be exempt from any regulations governing the residence of aliens in Sudan, including alien registration, but shall not be considered as acquiring any right to permanent residence or domicile in Sudan.

36. For the purpose of such entry or departure, members of UNAMID shall only be required to have a national passport, United Nations *laissez passer* or similar acceptable document issued by a competent authority. Without prejudice to fundamental principles and practices of peacekeeping as enshrined in the United Nations model Status of Forces Agreement (A/45/594) and the provisions of paragraph 35, the Government for the practical purposes of facilitating the entry of members of UNAMID into Sudan shall, on request of UNAMID, issue, without delay and free of charge, multiple entry visas to the Joint Special Representative and officials of the United Nations and of the African Union assigned to the civilian component of UNAMID, United Nations Volunteers, military observers, military liaison officers, military staff officers, United Nations civilian police and contractors. These shall be issued either at a Sudanese Embassy abroad or upon arrival in Sudan and shall be issued in a document recognized for international travel, such as a national passport, a United Nations *laissez-passer* or similar acceptable document issued by a competent authority. Upon request from UNAMID, the Government shall issue, without delay and free of charge, multiple entry visas to UNAMID military personnel of national contingents, upon arrival, at their place of entry in Sudan. It is understood that this paragraph in no way constitutes a precedent for current or future peacekeeping operations of either the United Nations or African Union or operations of a hybrid nature.

Identification

37. The Joint Special Representative shall issue to each member of UNAMID before or as soon as possible after such member's first entry into Sudan, as well as to all locally recruited personnel and contractors, a numbered identity card, showing the bearer's name and photograph. Except as provided for in paragraph 36 of the present Agreement, such identity card shall be the only document required of a member of UNAMID.

38. Members of UNAMID as well as locally recruited personnel and contractors shall be required to present, but not to surrender, their UNAMID identity cards upon demand of an appropriate official of the Government.

Uniforms and arms

39. Military members and United Nations military observers, United Nations military liaison officers and civilian police of UNAMID shall wear, while performing official duties, the national military or police uniform of their respective States with UNAMID accoutrements. United Nations Security Officers and Field Service officers may wear the United Nations uniform. The wearing of civilian dress by the above-mentioned members of UNAMID may be authorized by the Joint Special Representative at other times. Military members, military observers, and civilian police of UNAMID, United Nations

Security Officers and United Nations close protection officers designated by the Joint Special Representative may possess and carry arms, ammunition and other items of military equipment, including global positioning devices, while on official duty in accordance with their orders. Those carrying weapons while on official duty other than those undertaking close protection duties must be in uniform at that time.

Permits and licenses

40. The Government agrees to accept as valid, without tax or fee, a permit or license issued by the Joint Special Representative for the operation by any member of UNAMID, including locally recruited personnel, of any UNAMID vehicles and for the practice of any profession or occupation in connection with the functioning of UNAMID, provided that no permit to drive a vehicle shall be issued to any person who is not already in possession of an appropriate and valid license.

41. The Government agrees to accept as valid, and where necessary promptly to validate, free of charge and without any restrictions, licenses and certificates already issued by appropriate authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for UNAMID. Without prejudice to the foregoing, the Government further agrees to grant promptly, free of charge and without any restrictions, necessary authorizations, licenses and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

42. Without prejudice to the provisions of paragraph 39, the Government further agrees to accept as valid, without tax or fee, permits or licenses issued by the Joint Special Representative to members of UNAMID for the carrying or use of firearms or ammunition in connection with the functioning of UNAMID. UNAMID shall at time of entry into Sudan provide to the Government lists of its firearms and ammunition.

Military police, arrest and transfer of custody, and mutual assistance

43. The Joint Special Representative shall, consistent with paragraph 5 of this Agreement, take all appropriate measures to ensure the maintenance of discipline and good order among members of UNAMID, including locally recruited personnel. To this end, personnel designated by the Joint Special Representative shall police the premises of UNAMID and areas where its members are deployed. Elsewhere, such personnel shall be employed only subject to arrangements with the Government and in liaison with it in so far as such employment is necessary to maintain discipline and order among members of UNAMID.

44. The military police of UNAMID shall have the power of arrest over the military members of UNAMID. Military personnel placed under arrest outside their own contingent areas shall be transferred to their contingent Commander for appropriate disciplinary action. The personnel mentioned in paragraph 43 above may take into custody any other person on the premises of UNAMID. Such other person shall be delivered immediately to the nearest appropriate official of the Government for the purpose of dealing with any offence or disturbance on such premises.

45. Subject to the provisions of paragraphs 26 and 28, officials of the Government may take into custody any member of UNAMID:

- (a) When so requested by the Joint Special Representative; or
- (b) When such a member of UNAMID is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any weapons or other item seized, to the nearest appropriate representative of UNAMID, whereafter the provisions of paragraph 51 shall apply *mutatis mutandis*.

46. When a person is taken into custody under paragraph 44 or paragraph 45 (b), UNAMID or the Government, as the case may be, may make a preliminary interrogation, but may not delay the transfer of custody. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

47. UNAMID shall in accordance with Section 21 of the Convention cooperate at all times with the appropriate authorities of the Government in order to facilitate the proper administration of justice. UNAMID and the Government shall also assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may be made subject to their return on the terms specified by the authority delivering them. Each party shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 44 to 46.

Safety and security

48. The Government shall ensure that the provisions of the Convention on the Safety of United Nations and Associated Personnel are applied to and in respect of UNAMID, its members and associated personnel and their equipment and premises. In particular:

- (i) the Government shall take all appropriate measures to ensure the safety, security and freedom of movement of UNAMID, its members and associated personnel and their property and assets. It shall take all appropriate steps to protect members of UNAMID and its associated personnel and their equipment and premises from attack or any action that prevents them from discharging their mandate. This is without prejudice to the fact that all premises of UNAMID are inviolable and subject to the exclusive control and authority of the United Nations and the African Union;

- (ii) if members of UNAMID or its associated personnel are captured, detained or taken hostage in the course of the performance of their duties and their identification has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949;

(iii) the Government shall establish the following acts as crimes under its national law and make them punishable by appropriate penalties, taking into account their grave nature:

- a) a murder, kidnapping or other attack upon the person or liberty of any member of UNAMID or its associated personnel;
- b) a violent attack upon the official premises, the private accommodation or the means of transportation of any member of UNAMID or its associated personnel likely to endanger his or her person or liberty;
- c) a threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;
- d) an attempt to commit any such attack; and
- e) an act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack;

(iv) the Government shall establish its jurisdiction over the crimes set out in paragraph 48 (iii) above: (a) when the crime was committed on the territory of Sudan; (b) when the alleged offender is a national of Sudan; (c) when the alleged offender, other than a member of UNAMID, is present in the territory of Sudan, unless it has extradited such a person to the State on whose territory the crime was committed, or to the State of his or her nationality, or to the State of his or her habitual residence if he or she is a stateless person, or to the State of the nationality of the victim;

(v) the Government shall ensure the prosecution, without exception and without delay, of persons accused of acts described in paragraph 48 (iii) above who are present in the territory of Sudan (if the Government does not extradite them), as well as those persons that are subject to its criminal jurisdiction who are accused of other acts in relation to UNAMID or its members or associated personnel which, if committed in relation to the forces of the Government or against the local civilian population, would have rendered such acts liable to prosecution.

49. Upon the request of the Joint Special Representative, the Government shall provide such security as necessary to protect UNAMID, its members and associated personnel and their equipment during the exercise of their functions.

Jurisdiction

50. All members of UNAMID, including locally recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by or for UNAMID and after the expiration of the other provisions of the present Agreement.

51. Should the Government consider that any member of UNAMID has committed a criminal offence, it shall promptly inform the Joint Special Representative and present to him any evidence available to it. Subject to the provisions of paragraph 26:

(a) if the accused person is a member of the civilian component or a civilian member of the military component, the Joint Special Representative shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement the question shall be resolved as provided in paragraph 57 of the present Agreement. In the event that criminal proceedings are instituted in accordance with the present Agreement, the courts and authorities of Sudan shall ensure that the member of UNAMID concerned is brought to trial and tried in accordance with international standards of justice, fairness and due process of law, as set out in the International Covenant on Civil and Political Rights, to which Sudan is a Party;

(b) Military members of the military component of UNAMID shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in Sudan.

52. If any civil proceeding is instituted against a member of UNAMID before any court of Sudan, the Joint Special Representative shall be notified immediately and he shall certify to the court whether or not the proceeding is related to the official duties of such member.

(a) If the Joint Special Representative certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 55 of the present Agreement shall apply.

(b) If the Joint Special Representative certifies that the proceeding is not related to official duties, the proceeding may continue. In that event, the courts and authorities of Sudan shall grant the member of UNAMID concerned sufficient opportunity to safeguard his or her rights in accordance with due process of law. If the Joint Special Representative certifies that a member of UNAMID is unable, because of his or her official duties or authorized absence, to protect his or her interests in the proceeding, the court shall, at the defendant's request, suspend the proceeding until the elimination of the disability, but for no more than ninety (90) days. Property of a member of UNAMID that is certified by the Joint Special Representative to be needed by the defendant for the fulfilment of his or her official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of UNAMID shall not be restricted in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

Deceased members

53. The Joint Special Representative or the Secretary-General of the United Nations (who may consult with the Chairperson of the African Union Commission in appropriate case) shall have the right to take charge of and dispose of the body of a member of UNAMID who dies in Sudan, as well as that member's personal property located within Sudan, in accordance with United Nations procedures, unless

he/she is a locally recruited Sudanese national in which case it shall also be done in accordance with United Nations procedures and in consultation with the Government.

VII. LIMITATION OF LIABILITY OF THE UNITED NATIONS

54. Third party claims for property loss or damage and for personal injury, illness or death arising from or directly attributed to UNAMID, except for those arising from operational necessity, and which cannot be settled through the internal procedures of the United Nations, shall be settled by the United Nations in the manner provided for in paragraph 55 of the present Agreement, provided that the claim is submitted within six (6) months following the occurrence of the loss, damage or injury or, if the claimant did not know or could not reasonably have known of such loss or injury, within six (6) months from the time he or she had discovered the loss or injury, but in any event not later than one year after the termination of the mandate of the operation. Upon determination of liability as provided in this Agreement, the United Nations shall pay compensation within such financial limitations as have been approved by the General Assembly in its resolution 52/247 of 26 June 1998.

VIII. SETTLEMENT OF DISPUTES

55. Except as provided in paragraph 57, any dispute or claim of a private law character, not resulting from the operational necessity of UNAMID, to which UNAMID or any member thereof is a party and over which the courts of Sudan do not have jurisdiction because of any provision of the present Agreement shall be settled by a standing claims commission to be established for that purpose. One member of the commission shall be appointed by the Secretary-General of the United Nations, in consultation with the Chairperson of the African Union Commission, one member by the Government and a chairman jointly by the Secretary-General and the Government. If no agreement as to the chairman is reached within thirty (30) days of the appointment of the first member of the commission, the President of the International Court of Justice may, at the request of either the Secretary-General of the United Nations or the Government, appoint the chairman. Any vacancy on the commission shall be filled by the same method prescribed for the original appointment, provided that the thirty-day period there prescribed shall start as soon as there is a vacancy in the chairmanship. The commission shall determine its own procedures, provided that any two members shall constitute a quorum for all purposes (except for a period of thirty (30) days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the commission shall be final. The awards of the commission shall be notified to the parties and, if against a member of UNAMID, the Joint Special Representative or the Secretary-General of the United Nations shall use his or her best endeavours to ensure compliance.

56. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by the administrative procedures to be established by the Joint Special Representative.

57. All other disputes between UNAMID and the Government concerning the interpretation or application of the present Agreement that are not settled by negotiation shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission shall apply, *mutatis mutandis*, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

58. All differences between the United Nations and the African Union on the one hand, and the Government on the other hand arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure set out in Section 30 of the Convention.

IX. SUPPLEMENTAL ARRANGEMENTS

59. The Joint Special Representative and the Government may conclude supplemental arrangements to the present Agreement.

X. LIAISON

60. The Joint Special Representative, the Force Commander and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

XI. MISCELLANEOUS PROVISIONS

61. Wherever the present Agreement refers to privileges, immunities and rights of UNAMID and to the facilities Sudan undertakes to provide to UNAMID, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

62. The present Agreement shall enter into force immediately upon signature by or for the Secretary-General of the United Nations and Chairperson of the African Union Commission on the one hand, and the Government on the other.

63. The present Agreement shall remain in force until the departure of the final element of UNAMID from Sudan, except that:

- (a) the provisions of paragraphs 50, 53, 57 and 58 shall remain in force;
- (b) the provisions of paragraphs 54 and 55 shall remain in force until all claims made in accordance with the provisions of paragraph 54 have been settled;
- (c) the provisions of paragraph 48 (ii) shall remain in force until the release and return to the United Nations of any UNAMID or its associated personnel that have been captured, detained or taken hostage in the performance of their duties as referred to in that paragraph;
- (d) the provisions of paragraph 48 (v) shall remain in force until the prosecution of persons as referred to in that paragraph has been completed.

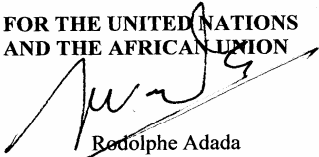
64. Without prejudice to existing agreements regarding their legal status and operations in Sudan, the provisions of the present Agreement shall apply to offices, funds and programmes of the United Nations, their property, funds and assets and their officials and experts on mission that are deployed in Sudan and perform functions in relation to UNAMID.

65. Without prejudice to existing agreements regarding their legal status and operations in Sudan, the provisions of the present Agreement may, as appropriate, be extended to specific specialized agencies and related organizations of the United Nations, their property, funds and assets and their officials and experts on mission that are deployed in Sudan and perform functions in relation to UNAMID, provided that this is done with the written consent of the Joint Special Representative, the specialized agency or related organization concerned and the Government.

IN WITNESS WHEREOF, the undersigned, being the duly appointed representative of the United Nations and the African Union, and the duly authorized plenipotentiary of the Government have, on behalf of the Parties, signed the present Agreement.

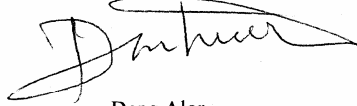
Thus done and signed at Khartoum on the 9th February of the year 2008.

**FOR THE UNITED NATIONS
AND THE AFRICAN UNION**



Rodolphe Adada
African Union and United Nations
Joint Special Representative

FOR THE GOVERNMENT OF THE SUDAN



Deng Alor
Minister of Foreign Affairs of the Sudan