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A Comprehensive Agreement for the Two Sudans: Is It Possible?

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Addis Ababa, Ethiopia—On June 28, the latest round of negotiations between the governments of Sudan and South Sudan adjourned after the Sudanese delegation requested leave to conduct political consultations with President Omar al-Bashir and other key political leaders in Khartoum. The Southern negotiation team similarly returned to Juba to conduct its own consultations. The parties are expected to return to Addis Ababa, Ethiopia on July 5 for three days of meetings during which they will debrief on their respective consultations and discuss next steps.

The next round of meetings will come less than one month ahead of the August 2 deadline established by the African Union Peace and Security Council, or AUPSC, and reinforced by United Nations Security Council Resolution 2046, for the conclusion of north-south negotiations. The parties' posturing during the last round of negotiations in many ways evidences their respective views of the August 2 deadline and the urgency it poses, or not, for the pace of discussions moving forward. Khartoum and Juba's divergent positions aside, one thing is certain: time is running short and the only viable mechanism for consolidating peace and security between the two Sudans remains the conclusion of a comprehensive agreement inclusive of all outstanding north-south issues, namely, security-related matters, the definition and demarcation of the north-south border, financial and oil issues, citizenship, and the final status of the Abyei area. As August 2 draws nearer, the question has now become, is it possible for the two Sudans to conclude a comprehensive agreement in the time that remains?

Issues Discussed and Positions Taken during the Latest Round of Negotiations

The last round of negotiations saw the parties discuss two primary, security-related matters: (1) the definition of the so-called “administrative common borderline” for the purposes of defining the Safe Demilitarized Border Zone, or SDBZ, and (2) modalities to determine the final definition of the disputed areas along the north-south border.

Definition of the Administrative Common Borderline

In a concession from its previous position concerning the definition of the administrative common borderline, the government of South Sudan “unconditionally” accepted the map proposed by the African Union High-Level Implementation Panel, or AUHIP, in November 2011, or the so-called “November 2011 AUHIP map,” as a basis for defining the SDBZ. The November 2011 AUHIP map defines the administrative common borderline such that all dispute areas lay north of the north-south border, save for the 14-mile wide strip of disputed territory known as the Monroe-Wheatley area. In accepting the November 2011 AUHIP map, South Sudan officially conveyed to the AUHIP, the AUPSC, and the U.N. Security Council its concerns over the map and its operationalization on the ground. In particular, while Juba is willing to accept the AUHIP’s map, it continues to assert that a complete demilitarization of the dispute areas, including the large area around Hofrat al Nahas, which has seen significant fighting recently, is the most prudent way forward. Indeed, South Sudan continues to advocate for this enhancement to the AUHIP’s proposal, referring to it as a “compromise” designed to allay both parties concerns over the operationalization of the AUHIP map. As well, South Sudan noted that the AUHIP’s map places all of the disputed territories, save for the Monroe-Wheatley area, north of the common administrative borderline until the final definition of the north-south border is determined. In effect, this gives Sudan administrative control over these areas in the interim. Finally, the November 2011 AUHIP map does not reflect realities on the ground, particularly around Hofrat al Nahas, where the Sudan People’s Liberation Army, or SPLA, controls significant territory. Despite these concerns, Juba unconditionally accepted the AUHIP’s map and accordingly stands ready to operationalize the SDBZ.

As in previous negotiation rounds, Khartoum continues to withhold its acceptance of the November 2011 AUHIP map. Instead, Sudan maintains its position that the common administrative borderline should follow the north-south borderline that the United Nations Mission in South Sudan, or UNMISS, has used since July 9, 2011 for operational purposes until such time as the two sides agree on a final definition to the north-south border. Sudan’s definition of the common administrative borderline places all disputed areas in the north.

While withholding its acquiescence to the AUHIP map, Khartoum has maintained its position that the two sides must first address security matters, inclusive of defining the SDBZ, before moving onto discussions concerning the remaining outstanding issues, namely, financial issues, inclusive of oil-related matters, citizenship, and the final status of the Abyei area. A hedging of this position may be forthcoming following political consultations in Khartoum, however, for now, Sudan's reluctance to move away from its original position and accept the November 2011 AUHIP map continues to stall progress on the definition of the SDBZ and the complete operationalization of the Joint Border Verification and Monitoring Mission, or JBVMM.

Absent from the discussions over the SDBZ is mention of the fact that the Sudan People's Liberation Movement-North, or SPLM-N, controls significant portions of territory along the north-south border, which are likely to lie within the SDBZ, once its final definition is determined. Indeed, a leading SPLM-N official recently expressed his awareness of this shortcoming of the north-south negotiations, noting that demilitarization of the border can only be completely achieved following consultations with and the involvement of the SPLM-N.

Determining the Final Definition of the North-South Border

Alongside discussions concerning the definition of the administrative common borderline, and, by extension, the SDBZ, Juba and Khartoum also discussed modalities for determining the final definition of the north-south border. Negotiations on this issue, and the parties' respective positions on the same, have changed little over the course of the two-year long negotiation process. South Sudan continues to push for international arbitration to resolve the definition of the disputed areas, while Sudan maintains its preference for a negotiated settlement.

What has changed now, though, is the intersection between this issue and the definition of the administrative common borderline. South Sudan now insists that the two parties agree on the modality through which they will determine the final definition of the north-south border ahead of the August 2 deadline. For Juba, a failure to do so will produce uncertainty and insecurity along the border. This is exacerbated by Juba's unconditional acceptance of the November 2011 AUHIP map, which places the vast majority of the disputed areas under the north's administrative control until a determination of the final definition of the border is made. Agreement on modalities for resolving outstanding border disputes as soon as possible, and ahead of August 2, is therefore absolutely critical for the South. Without it, South Sudan feels as if it risks losing the disputed areas lying north of the common administrative borderline. This fear is particularly acute, in light of the perpetual sovereignty and administrative limbo in which the Abyei area current exists and Khartoum's resistance to find a final status resolution to the same.

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Sudan, on the other hand, appears insistent on maintaining the status quo at all costs. This means delaying a final resolution to the disputed areas, while holding onto as much administrative control, whether that control be *de facto* or *de jure*, for as long as possible over those areas.

Bi-Lateral Discussions between Sudan and South Sudan

Significantly, during the last round of negotiations, South Sudan and Sudan met in closed-door, bilateral meetings at the behest of the South Sudanese delegation. Concerned with the looming August 2 deadline and the parties' impasse on security-related matters, Juba invited Khartoum to discuss ways in which the two sides could reinstate negotiations on the remaining outstanding issues, specifically, financial and oil-related matters, citizenship, and the final status of the Abyei area. These discussions would occur alongside continued negotiations on security-related matters, inclusive of the final definition and demarcation of the north-south border, with the overall goal being to conclude a comprehensive agreement on all of the outstanding issues ahead of the August 2 deadline.

In public statements and communications with the AUHIP, South Sudan expressed the need for greater urgency in the resumption of discussions of all remaining issues. Indeed, South Sudan formally communicated to the AUHIP its concern that the facilitation had yet to invite the two parties to discuss the remaining outstanding issues, instead focusing the agenda of recent negotiations on security-related matters, per Khartoum's insistence that these matters be addressed prior to further discussions on other issues. While South Sudan has and continues to emphasize security, its posturing during this latest round of talks, as well, evidences its strong desire to appear in compliance with the August 2 deadline.

The South's request to reinstate negotiations on the remaining outstanding issues was received positively by the Sudanese delegation. However, the South's request was also the stated reason for Sudan's return to Khartoum for political consultations. This is, perhaps, not surprising, given that an acquiescence to the South's request would be a concession for Sudan, not only in terms of its recent, security-first approach, but also because of its previous reluctance to address holistically the issues under negotiation.

Notably, Sudanese Minister of Defense Abdelrahim Mohamed Hussein noted in a press conference immediately ahead of his delegation's departure from Addis Ababa on July 28 that the most important aspect of the August 2 deadline is a "reduction of the tension." That Hussein did not note the deadline's direct relation to the negotiation process or register concern over the slow progress of the same is, perhaps, telling of Khartoum's current overall approach to the negotiations. While South Sudan appears increasingly

concerned over the fast approaching deadline, and is making overtures to both Sudan and the AUHIP designed to increase the pace of the talks, Khartoum is not overtly concerned by the impending deadline, and, indeed, requested leave from the last round of talks to consult with leadership, further delaying progress. Whether Sudan's desire for consultations was a genuine move to solidify negotiation positions and clarify mandates or, alternatively, whether it was simply a further delay tactic, is unclear. Potentially concerning, however, are the protests and civil unrest erupting in Khartoum and other regions of Sudan, as well as recent speculation of changes to the composition of the Sudanese government. These destabilizing factors could, justifiably or not, provide Khartoum with reasons to delay the next negotiation round, or forestall it all together.

Recommendations to the International Community and the Two Sudans

To mitigate the risk that Khartoum and Juba fail to reach agreement on all outstanding issues ahead of the August 2 deadline, the international community and/or the two Sudans should:

- Find an immediate solution to the current impasse concerning the definition of the administrative common borderline. To this end, the international community, in particular, the AUHIP, the U.N., the Sudan Troika, China, Ethiopia, Qatar, and other influential actors should place appropriate diplomatic pressures on the government of Sudan to accept the November 2011 AUHIP map. Efforts should be made to allay both Khartoum and Juba's concerns over the AUHIP's map through, among other things, reinforcing the underlying assertion that acceptance of the map will, in no way, prejudice the two parties' respective claims vis-à-vis the disputed areas and further exploring options related to the demilitarization of the disputed areas, per the South's proposal, and/or the joint administration of the disputed areas.
- Work to ensure that Sudan and South Sudan come to agreement on the modality for determining the final definition of the north-south border as soon as possible and ahead of the August 2 deadline. Given that the parties have unsuccessfully worked since 2005 to define the north-south border through negotiation, it appears most prudent to resort to alternative options, namely, arbitration. Previous experience with the Abyei area indicates that Khartoum, in particular, is prone to delaying the final status resolution of disputed areas, undermining agreements concerning prolonged joint administration of the same, and conflating administrative control with sovereignty. To avoid the creation of several Abyei-like disputed regions along the north-south border, the international community should immediately seek to persuade the government of Sudan to agree to final and binding arbitration to resolve conclusively the status of the disputed border areas. Any agreement to arbitrate should include an internationally monitored implementation mechanism to ensure both parties' compliance with any final decisions concerning the north-south border's definition. Prolonged uncertainty

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surrounding the final definition of the border could undermine peace and security in the region and compromise the implementation of any further agreements that Khartoum and Juba conclude concerning the other outstanding issues.

- Simultaneous with continued negotiations on security, immediately commence talks concerning the other outstanding issues, namely, financial issues, inclusive of oil-related matters, citizenship, and the final status of the Abyei area. The ultimate goal of these negotiations must be the conclusion of a comprehensive agreement inclusive of all outstanding issues as soon as possible and ahead of the August 2 deadline.
- Commence immediately a North-North negotiation track, in addition to the existing north-south negotiation track. This North-North track should address current conflicts within Sudan by initiating negotiations between the Sudanese government and the military and political components of the Sudan Revolutionary Front, or SRF. The goal of this track should be the conclusion of a ceasefire agreement between government forces and the SRF, guarantees of unrestricted access for international humanitarian aid agencies throughout all regions of Sudan, and transitional political arrangements that pave the way for a transparent, all-inclusive, and participatory constitutional process and democratic elections. The African Union High Level Implementation Panel, or AUHIP, the chairman of the Intergovernmental Authority on Development, or IGAD, the U.N. Special Envoy for the two Sudans, Haile Menkerios, and other influential international actors, including the U.S., China, Ethiopia, and Qatar, should prioritize the commencement of this North-North negotiation process through the application of appropriate, consistent, and concerted diplomatic pressure on Khartoum to come to the negotiation table. To date, Khartoum has publicly refused to negotiate with the SPLM-N and other members of the SRF. In light of the two parties' emphasis on security, particularly Khartoum's, it is difficult to see the conclusion of a sustainable, comprehensive agreement on north-south issues without the commencement of measureable gains within this second, north-north negotiation track.