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An Update on Negotiations Between the Sudans

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This report went to publication on July 30, 2012. Negotiations between South Sudan and Sudan, and Sudan and the SPLM-N, respectively, are ongoing. The Enough Project will continue to follow the negotiations and provide updates in the coming weeks. No Sudan government representatives could be reached for the purposes of this report.

In the last days before the August 2 deadline, Sudan and South Sudan's positions on key outstanding issues—arrangements on oil and associated financial payments, resolution of disputed and claimed border areas and border demarcation, the final status of Abyei, and the establishment of a demilitarized zone along the North-South border—remain far apart.

United Nations Security Council resolution 2046 (2012) establishes a deadline of August 2 for the two parties to reach agreement on these issues. If negotiations between the two Sudans do not result in agreement on any or all of those issues, the African Union, or A.U., the U.N., and the Intergovernmental Authority on Development, or IGAD, are requested by the Council to make detailed proposals on how to resolve all outstanding issues. This deadline is around the corner, and it is unlikely that a comprehensive agreement will be struck in time.

However, there are opportunities for important interim steps. The establishment of a demilitarized zone along the North-South border, which is critical for defusing tensions as negotiations continue forward, is possible if there is targeted international pressure on Khartoum to accept the map proposed by the African Union High-Level Implementation Panel, or AUHIP. A demilitarized border zone should satisfy both sides' short-term security concerns, including Sudan's emphasis on southern support for rebel forces operating in the Sudanese states of South Kordofan and Blue Nile, as well as in Darfur.

Resolution 2046 also decides that Sudan and the Sudan People's Liberation Movement—North, or SPLM-N, shall cooperate with the AUHIP and IGAD Chair to reach a negotiated settlement on the conflicts in South Kordofan and Blue Nile and urges both parties to accept the tripartite proposal to permit humanitarian access into the two states. However, Khartoum continues to reject the latter. The political track that

has been initiated—in response to the continued impasse on the humanitarian side—will not yield progress in the short-term. The pressing humanitarian needs in the two states demands that at least a temporary mechanism is established to secure international, third party humanitarian access into SPLM-N controlled areas in the two states before the August 2 deadline.

In the long term, security issues between the two countries can only be addressed through a two-track process, consisting of parallel North-South and North-North talks, the latter of which would lead to the resolution of the fundamental issues of governance and center-periphery tensions at the root of the conflicts in Sudan.

North-South Talks

In the latest, ongoing round of negotiations, which began on July 12, 2012 in Ethiopia, both Sudan and South Sudan tabled proposals outlining their latest positions on the unresolved issues. On July 16, Sudan submitted its first comprehensive proposal—inclusive of all unresolved issues—since the start of the talks. Khartoum proposed to sequence negotiations on the remaining issues, starting with security arrangements. The proposal was a reiteration of Khartoum's positions on security and border arrangements, and offered no specific positions on the other remaining issues. On July 22, South Sudan put down a detailed draft agreement that contains, among other things, economic concessions, a reiteration of Juba's position on border disputes and demilitarization, and a more detailed position on the Abyei area referendum. Khartoum has since responded with an oil proposal. Here are the latest positions:

Economy: Discussions over the financial package that South Sudan would provide Sudan to alleviate the economic losses that resulted from secession have long included three key pieces: 1) the fees and tariffs that South Sudan would pay to Sudan for the use of pipelines on Sudanese territory, 2) a direct financial transfer, and 3) South Sudan's commitment to jointly lobby international creditors in an effort to seek debt relief for Sudan. The International Monetary Fund, or IMF, estimates that Sudan's financial gap equals \$7.77 billion, while the Sudanese government says it is \$10.4 billion. Juba's latest proposal increases the amounts offered on the first two items, and maintains its commitment on the third. In response, Khartoum offered two alternate positions with some concessions on the oil transportation fee. In the first position, Sudan lowered the fee to \$32.2 per barrel. Alternately, Sudan accepted South Sudan's \$3.028 financial transfer and asked for a lower fee of \$22.3 per barrel. Both positions result in a total payment of \$9.6 billion to Khartoum over three and a half years. As such, a \$6 billion dollar gap ultimately remains between the two sides' proposals. The \$9.6 billion position is quite high given Khartoum's own estimation that its financial gap is \$10.4 billion, and would be politically un-sellable for the Juba government.

Breakdown of economic positions*

		South Sudan	Sudan	Sudan II
Oil-related fees	Transit fee	\$0.63 (GNPOC) and \$0.69 (Petrodar)	\$6.00	N/A
	Central processing fee	\$1.07	\$4.40	N/A
	Other tariffs	\$7.40 (GNPOC) and \$5.50 (Petrodar)	\$21.80	N/A
	Total oil transportation fee	\$9.10 (GNPOC) and \$7.26 (Petrodar)	\$32.20	\$22.30
Oil –related payments over 3.5 years		\$217 million	Between \$1.8 ¹ and \$9.6 billion*	\$6.6 billion*
Financial transfer		\$3.028 billion	\$0	\$3.028 billion
TOTAL PACKAGE		\$3.245 billion	\$9.6 billion	\$9.628 billion

*Assumes daily output of 234,000 barrels.

Khartoum could feasibly receive, at minimum, a transit fee of only \$6 per barrel and pay the remaining \$26.2 per barrel transportation fee to the foreign oil companies who own and operate the pipelines. Over three and a half years, \$6 per barrel equals about \$1.8 billion in oil fee payments to Khartoum. This is highly unlikely though, given that \$1.8 billion is a much lower number than Juba's offered \$3.245 billion and is inconsistent with Sudan's second proposal.

The South Sudanese proposal additionally offers to forgive \$4.968 billion of arrears it claims Sudan owes, a significant increase from the previous offer to forgive \$2.8 billion. The amount of debt is owed by Khartoum to Juba, though, remains disputed.

Security and Border: In June 2011, Sudan and South Sudan agreed to establish a Safe Demilitarized Border Zone¹, or SDBZ, as a mechanism for securing and demilitarizing the volatile North-South border. This demilitarized zone has yet to be established because of continued disagreement over the centerline from which the zone would begin. Discussions focus on an AUHIP-proposed map that temporarily—and without prejudice to the final status of the disputed areas—places four of the five disputed territories in Sudan, and one in South Sudan. The demilitarized zone would extend 10 km on each side of the line.

South Sudan's position on the SDBZ remains the same. Juba accepts the centerline established by the AUHIP map but additionally proposes to demilitarize, in whole, all disputed and claimed areas along the border as well an additional 10 km beyond the northern and southern-most borders of the unresolved areas. Juba's latest proposal also includes four border areas "claimed" by the South, in addition to the five disputed border areas already agreed upon between the two parties and the AUHIP. The proposal additionally calls for the joint administration of all disputed and claimed border areas without specifying the mechanics of such a set-up. Khartoum will likely reject these additional claims in negotiations.

On the actual settlement of the disputed border areas, South Sudan's position is that after the August 2 deadline, all remaining disputes should go to an arbitration process that should last no more than one year.

Sudan maintained its position that the centerline used to determine the SDBZ should not be the AUHIP map, but should be the North-South border used during the CPA interim period and by various U.N. missions. Khartoum's key concern continues to be that the AUHIP map places one disputed area, the so-called Monroe-Wheatley area, in South Sudan. On the settlement of the disputed border areas, Sudan maintains its position that the areas should be negotiated at a technical committee level as well as at the presidential level.

According to proposals put down by the Sudanese government earlier in this round of talks, Khartoum also called for South Sudan to take a series of steps to "end the presence of any Sudanese elements," including Sudan People's Liberation Army-North, or SPLA-N, forces, in South Sudan's armed forces, the Sudan People's Liberation Army, or SPLA. These steps include the demobilization and withdrawal of proxy forces supported by both sides to 50 km beyond the demilitarized zone to refugee camps or for deportation back to their home country. Given Juba's lack of command and control over the SPLA-N, it appears impossible for South Sudan to act on this proposal.

Abyei: South Sudan specifies in greater detail than previously the terms of the referendum that would decide whether Abyei belongs to Sudan or South Sudan. South Sudan calls for the vote to be held by November 30, 2012, and to be jointly organized by the African Union and United Nations. South Sudan's proposal defines eligible voters as: (a) all members of the nine Ngok Dinka chiefdoms; and (b) any other individual "who has had a continuous and uninterrupted residence and domicile within the Abyei Area (as defined by the 22 July 2009 decision of the Abyei Arbitration Tribunal) for no less than three (3) consecutive years immediately prior to 9 January 2005."

Sudan's proposal leaves the determination of Abyei's final status to future negotiations at the presidential level.

North-North parallel process

Talks between the SPLM-N and the Sudanese government began on July 23, 2012 on the issue of humanitarian access into South Kordofan and Blue Nile. The SPLM-N position was a continued commitment to the tripartite proposal signed in February 2011, with two additions: 1) aid is temporarily, but immediately, distributed to SPLM-N controlled areas cross-border, not cross-line and 2) that the SPLM-N would enter into a one-month renewable cessation of hostilities in order to facilitate humanitarian access. Cross-border means that humanitarian aid would be distributed from across Sudan's borders; cross-line means that humanitarian aid would be distributed from within Sudan itself into South Kordofan and Blue Nile. Khartoum reiterated the same nine principles the government laid out in June 2012, a position that effectively continues to

deny international, third party humanitarian access into SPLM-N-held areas. The government maintains that it is in their sovereign right to have only government-approved actors distribute aid in SPLM-N held areas.

The impasse over the humanitarian access issue prompted international facilitators to end the humanitarian track on July 25 to initiate talks on the political issues underlying the conflicts in South Kordofan and Blue Nile. This shift in focus is based on the argument that because the humanitarian access question is essentially a political one, progress on the political track is needed before agreement on access can be found. In a statement on July 26, SPLM-N leader Yasir Arman decried this decision as a delaying tactic on Khartoum's part. "Allowing Khartoum to smuggle the implementation of the tripartite proposal into [the] political agenda seriously undermines the A.U. resolution and the UNSC resolution 2046 and it is sentencing civil populations to death," the statement said.

It is unlikely that the political track will yield any progress in the short-term. Both the Sudanese government and SPLM-N have separately held consultations with the AUHIP on potential talks. The government of Sudan submitted a proposal on July 29 that emphasized the need for South Sudan to disengage from the situation in South Kordofan and Blue Nile, pinned the blame for the start of the conflicts on the SPLM-N, but did not offer any clear solutions forward. The SPLM-N's position is that the right environment is not in place for genuine talks to begin. Representatives remain dubious of the Sudanese government's intentions for engaging in talks when Khartoum has not expressed willingness to negotiate on the basis of the "June 28 Framework Agreement" and because the SPLM-N remains an illegal entity in Sudan (as a result of a decision taken by Khartoum in response to the outbreak of conflict), among other reasons. Resolution 2046 calls on the two parties to negotiate on the basis of the June 28 agreement, a previous pact signed by the two parties but was subsequently rejected by Khartoum.

Given that the security issues between North and South are inextricably tied to the conflicts in Sudan, North-South relations can only improve alongside progress on the resolution of all of Sudan's conflicts—not just those in South Kordofan and Blue Nile. Without the commencement of and measurable gains on a North-North track that tackles the governance issues at root of the conflicts in Sudan, it is difficult to see the conclusion of a sustainable and comprehensive North-South agreement. Previous Enough publications regarding the negotiations highlight specific policy recommendations related to the parallel North-North track.²

Going forward

Robust international diplomacy could play a significant role in helping to broker an agreement. Both South Sudan and Sudan in their most recent positions have made clear what they hope to see from interested countries. For Juba, the international community

ideally serves as the ultimate arbiter and deadline enforcer on talks that have already dragged on for too long. For Khartoum, current talks are as much about normalizing its economic relationship with the international community as they are about negotiating the best package from Juba.

In the days remaining before the August 2 deadline, targeted and coordinated international pressure are necessary to help push the two leaders toward agreement on the remaining issues. At a minimum, Khartoum's acceptance of the AUHIP map, which allows for the SDBZ to be established, and a temporary mechanism providing international, third party humanitarian access into rebel-controlled areas in South Kordofan and Blue Nile, are important for maintaining peace between the two countries as they are likely continue to haggle over their futures after August 2.

Endnotes

- 1 Jenn Christian, "Negotiations between the Two Sudans: The Safe Demilitarized Border Zone Explained" <http://www.enoughproject.org/files/SDBZ.pdf>, 19 June 2012.
- 2 Jenn Christian, "South Kordofan and Blue Nile: The Key to Peace Between the Two Sudans?" http://www.enoughproject.org/files/Christian-SK_BN-Field-Dispatch.pdf, June 2012.