



The July Deadline Won't Work

Why the U.S. needs to delay the decision on Sudan sanctions

By The Enough Project*
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As a July decision approaches on whether to permanently remove most sanctions on Sudan, the Trump administration should properly evaluate progress, or lack thereof, on each of the five tracks on which progress is required, and the administration should not privilege any single track over others. Enough's view is that the evidence available concerning multiple tracks is inconclusive. Combined with the fact that key senior Trump administration officials responsible for Africa policy are not yet in place, this calls for a six-month delay on the decision, during which time the Trump administration should assign the additional staff needed to gather credible information and assess progress on each of the five tracks. While properly assessing progress on the five tracks, the Trump administration should also pivot to pursue a separate new track of engagement focused on advancing peace and human rights in Sudan.¹

Introduction

This past January, the outgoing Obama administration conditionally eased almost all U.S. sanctions on Sudan, arguing that the Sudanese government had made improvements in five tracks of engagement: (1) cooperation on counterterrorism; (2) cooperation in countering the Lord's Resistance Army (LRA); (3) commitment to a cessation of hostilities in Sudan's conflict areas; (4) ending support to South Sudanese armed opposition actors; and (5) providing humanitarian access to populations in need. The Obama administration asserted that the prospect of full sanctions removal created incentives for the Sudanese regime to improve conditions for the Sudanese people.² The executive order initially easing U.S. sanctions in January provided that the sanctions would be lifted altogether in mid-July 2017 if the Sudanese government verifiably "sustained the positive actions that gave rise to this order."³

There are four major problems with the executive order and the way it was implemented by the Obama administration. First, it removed one of the biggest points of leverage the United States has to achieve its policy objectives at the very time the sanctions were beginning to bite more effectively, mostly because of enforcement of Iran sanctions that led to enforcement actions related to Sudan.⁴ Second, the Trump

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administration is just now putting in place the personnel needed to properly track and make use of the potential opportunity provided by the conditional easing of sanctions. Third, at the time of the issuance of the executive order in January, the Sudanese regime in fact had not made such meaningful progress on at least two of the five tracks as to warrant the easing of sanctions at that time. Fourth, the five tracks do not by themselves address the core human rights and governance issues that are at the center of the ongoing crisis. This policy initiative is therefore deeply flawed and incomplete, undermines U.S. foreign policy objectives, and gives away a major point of U.S. leverage for little beyond potential short-term counterterrorism gains while doing nothing to address the structural issues in Sudan that have led to increased refugee flows to Europe, further repression of Sudanese Christians and other minority groups, and continued war and authoritarian leadership.

What we know and what we do not know

There is not sufficient evidence of progress in Sudan on at least two of the five tracks, and it would be premature to conclude that any potential hints of progress would be sustainable if U.S. sanctions were permanently lifted in July. Multiple accounts suggest that the Sudanese government's behavior contravenes two of the five tracks—"a marked reduction in offensive military activity, culminating in a pledge to maintain a cessation of hostilities in conflict areas in Sudan, and steps toward the improvement of humanitarian access throughout Sudan"⁵—that are directly linked to conditions inside the country that affect the survival and security of Sudanese citizens.

Offensive military activity and cessation of hostilities in Darfur and the Two Areas

There is little evidence of a recent "marked reduction in offensive military activity" in Darfur. Instead there is ample evidence of the Sudanese government's disregard of the safety of civilians or outright targeting of civilians, with numerous reports of violent attacks in Darfur by Sudanese government forces (the Sudan Armed Forces, SAF), integrated militia known as the Rapid Support Forces (RSF), and other government-armed ethnically-based militias in Darfur.

In late May, there was a bout of fighting in Darfur with attacks on civilians that prompted the Troika countries (United States, United Kingdom, and Norway) and European embassies in Sudan to issue statements of concern calling on the warring parties to reengage in peace talks and calling on the UNAMID peacekeeping mission in Darfur to monitor the effects of the fighting and protect civilians.⁶

Although many of the reports about clashes in the conflict zones are usually difficult to verify independently, multiple expressions of concern by international observers about the violence in Darfur offers a strong corroboration of local reporting, especially regarding the crackdown on civilians in the Ain Siro area of North Darfur that followed the fighting in May.⁷

While these serious clashes raise doubt about the government claims that the conflict has ended in Darfur, the current patterns of violence reflect broader trends. Over the past few years, the very nature of deadly violence and resulting forced displacement and tearing apart of communities in Darfur has shifted significantly from a dynamic of government and armed opposition forces fighting one another to a dynamic of overall disruption from frequent intercommunal fighting. The Sudanese government's strategy of providing military training and equipment to members of allied community groups in pursuit of its longstanding policy of dividing to rule Darfur has resulted in the mushrooming of multiple categories of government-allied militias. Some of these militias, such as the RSF, are formally integrated into the

Sudanese government's regular forces. Other militias operate under the overall chain of command of the Sudanese army and intelligence agency, with field commanders drawn from the traditional structures of their communities. The Sudanese government evades responsibility for the chaotic violence that results from this policy by dismissing intercommunal clashes as traditional disputes over resources and livestock.

Further, uncontrolled elements of government militias have joined common criminals in unleashing waves of petty crime and banditry with impunity across Darfur, suggesting local authorities are unable or unwilling to stop these actors.⁸

It is of grave concern that an increasing number of international actors are uncritically adopting this falsehood of intercommunal clashes being framed as traditional disputes over resources and livestock. The Trump administration has the responsibility of being more discerning by recognizing the clear responsibility of the government of Sudan in setting in motion this new type of violence and by demanding that Sudanese government leaders stop arming actors in Darfur.

Beyond Darfur, there is minimal "offensive military activity" at the moment in the Two Areas (Southern Kordofan and Blue Nile). There have been some reports of security incidents and skirmishes between the Sudanese government and the Sudan People's Liberation Movement-North (SPLM-N) armed opposition⁹ despite the unilateral cessation of hostilities that both sides have otherwise largely respected, each for their own reasons.¹⁰ These incidents, however, were rapidly contained.

One significant weakness with the track for the Sudanese government to "maintain a cessation of hostilities in conflict areas in Sudan" is that it creates no actual obligations for the Sudanese government to show its commitment to pursuing a negotiated cessation of hostilities or broader peace process. "Maintaining a cessation of hostilities" requires inaction on a negative condition. A "cessation of hostilities" also needs a clearly defined meaning with benchmarks and indicators to serve as an effective measure of the Sudanese government's actions. It is difficult for the U.S. government to verify the origin of many military actions in Darfur and to prove or disprove the Sudanese government's role. The Sudanese government has only to ensure that it does not get caught contravening a cessation of hostilities in areas where it has one.

The United States should require the Sudanese government to take specific action on the cessation of hostilities track, for example, limiting actions by the militias it controls, improving access for those monitoring and verifying conditions in conflict areas, or limiting troop movements. There are numerous terms in the proposed negotiated cessation of hostilities from the African Union High-Level Implementation Panel (AUHIP) negotiations that the United States could consider adding as conditions for the Sudanese government to undertake to satisfy the cessation of hostilities track. Without clarity, tracking, continued pressure, and engagement on the cessation of hostilities requirements and the expectations that come with these provisions, the Sudanese government is likely to do the bare minimum and could be emboldened to harden its position on further requirements with a cessation of hostilities or a broader more lasting negotiated ceasefire arrangement.

Lack of improvement of humanitarian access throughout Sudan

There is little evidence of expanded and sustained humanitarian access over the past year, following a decade of progressive access restrictions that have been raised by the U.S. government as a key concern that it wished to address through the five-track process. The Sudanese government has not demonstrated

genuine political will to improve access. Instead the Sudanese government has continued to impede it throughout Sudan and places high barriers to access to Jebel Marra in Darfur and parts of Southern Kordofan and Blue Nile states, where more than a million people need life-saving support.¹¹ (Some areas that need humanitarian aid are controlled by the SPLM-N armed opposition, which is currently navigating a leadership rift that has diverted attention from the humanitarian crises and hampered the SPLM-N's ability to negotiate the delivery of medical and humanitarian supplies in these areas.¹²) Moves by the Sudanese government that may seem positive in this area are simultaneously convenient for the regime. The government often provides humanitarian access on a one-off, not unfettered basis, or to areas it has recaptured and where few people are left because most have fled. Also, when the Sudanese government provides irregular access, this complicates the provision of time-sensitive humanitarian supplies, like water, which must be delivered regularly.

In February the Sudanese government's Humanitarian Aid Commission (HAC) issued guidance on the implementation of the humanitarian access reforms that had previously been recognized by the Obama administration as indicating the constructive engagement of the government of Sudan in the five-track process. This new HAC guidance showed a significant rolling back from the agreement on reforms to the restrictions on humanitarian access that contributed to the easing of sanctions in January 2017, with no public response from the U.S. government to push the reforms back on track. The 2017-2019 Sudan Multi-Year Humanitarian Strategy, released by the U.N. Office for the Coordination of Humanitarian Affairs (OCHA) in May 2017,¹³ shows no planning in place for improved humanitarian access in 2017 or the medium term, nor has the body reported any improvements in humanitarian access during the past six months. The status quo in humanitarian planning within Sudan demonstrates the lack of progress that has been made over the past six months.

Furthermore, the Sudan Voluntary and Humanitarian Works Act of 2006, which regulates nongovernmental organizations and severely constrains their work, remains on the books. U.N. Independent Expert on the Situation of Human Rights in the Sudan Aristide Nononsi has called on the Sudanese government to amend the act to align with Sudan's current constitution and with international human rights standards.¹⁴ In addition, Sudan maintains a policy of "Sudanization" of humanitarian aid, which calls for all international humanitarian actors to leave the country by 2018.

Other tracks

There is little verified information on the status of the other three tracks. There appears to be no independently confirmed information linking the Sudanese government to recent support for any of the warring parties in South Sudan, despite a long history of such support, though in mid-June the government of South Sudan made allegations, yet to be corroborated independently, that the Sudanese government had resumed support to South Sudanese rebels.¹⁵ Concerning the effort to counter the Lord's Resistance Army and apprehend LRA leader Joseph Kony, who has moved through Sudan-controlled territory in and around Kafia Kingi since 2009¹⁶ and as recently as December 2016,¹⁷ the Sudanese government's offers to cooperate have coincided with preparations by Ugandan troops who serve as part of the African Union Regional Task Force to counter the LRA to conclude their participation in the mission.

Khartoum's cooperation on counterterrorism and its contributions in this area is not public and thus we would draw no conclusions on this particular track, although it does seem to be the most important track to many within the U.S. government. While claiming to cooperate with U.S. intelligence agencies in fighting international terrorism, Sudan's government continues to tolerate radical Salafist groups and to

allow these groups to propagate their ideology publicly and recruit a growing number of youth to their ranks. The Trump administration should account for this development in assessing Sudan's cooperation in counterterrorism and urge the Sudanese government to reign in the groups that propagate the ideologies of violent religious extremism in Sudan.

The executive order easing sanctions in January says that "On or before July 12, 2017, the Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, and based on a consideration of relevant and credible information from available sources, including nongovernmental organizations, shall provide to the President a report on whether the Government of Sudan has sustained the positive actions that gave rise to this order..."

The Trump administration lacks the verifiable information that it needs to confirm that the government of Sudan has sustained these positive actions on all five tracks. There are multiple public reports to suggest the contrary related to at least two of the tracks.

The Trump administration also lacks the key personnel in the State Department and U.S. Agency for International Development (USAID)¹⁸ who would normally be central decision-makers in such an interagency process. The State Department currently lacks an assistant secretary for African Affairs. There is no special envoy to Sudan or South Sudan, which inhibits senior-level engagement with Sudan. There is no senior director for Africa at the National Security Council.¹⁹ There is no confirmed administrator or assistant administrator for Africa at USAID.²⁰

Conclusion

The Trump administration should properly evaluate progress, or lack thereof, on each of the five tracks on which progress is required, and should not privilege any single track over others. Given what appears to be inconclusive evidence concerning multiple tracks, the Trump administration should defer the decision to lift comprehensive sanctions on Sudan in mid-July.

If there is such a delay, the Trump administration should assign and equip the personnel needed to collect and compile information and properly analyze and assess the Sudanese government's action on all five tracks. Producing a credible report to inform the decision about sanctions requires collecting information and working with a range of partners in the coming months to better understand some of the contested aspects of the five tracks, such as the sources and nature of violence in Darfur and the degree to which there is sufficient and sustainable progress on humanitarian access to populations in need.

In addition to taking these steps, the Trump administration should also pivot and pursue a separate, new and independent track for peace and human rights in Sudan. Incorporating modernized and focused financial pressures tools, as well as new incentives, this new track should seek to advance human rights, religious freedom, essential democratic reforms, anti-corruption efforts, good governance, and a comprehensive peace in Sudan, which can help open political space that allows Sudanese people to push for the changes that can end violent conflicts in Southern Kordofan, Blue Nile, and Darfur.²¹

Endnotes

¹ For a more in-depth analysis of this argument see The Enough Project, “The Missing Track: The case for a new policy track between the United States and Sudan” (Washington: The Enough Project, June 2017), available at https://enoughproject.org/wp-content/uploads/2017/06/TheMissingTrack_June2016_Enough_Final_small.pdf. See also John Prendergast, “Why Donald Trump Needs to Take Action on Sudan,” TIME, May 31, 2017, available at <http://time.com/4798594/trump-sudan-sanctions-aid-corruption-terrorism/>; Testimony of Brad Brooks-Rubin, Policy Director to The Sentry and The Enough Project, House Foreign Affairs Committee, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, “The Questionable Case for Easing Sudan Sanctions,” April 26, 2017, available at http://enoughproject.org/wp-content/uploads/2017/05/BradBrooks-Rubin_testimony_HFAC_4.26.17_FINAL.pdf.

² U.S. President (Barack Obama), Executive Order 13761, “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions,” January 13, 2017, available at <https://obamawhitehouse.archives.gov/the-press-office/2017/01/13/executive-order-recognizing-positive-actions-government-sudan-and->.

³ Ibid.

⁴ John Prendergast and Brad Brooks-Rubin, “Modernized Sanctions for Sudan: Unfinished Business for the Obama Administration” (Washington: The Enough Project, April 2016), available at http://enoughproject.org/files/Modernized_Sanctions_for_Sudan_042016.pdf.

⁵ U.S. President (Barack Obama), Executive Order 13761.

⁶ Ahmed H. Adam, “Amid silence, atrocities in Darfur have restarted,” African Arguments, June 5, 2017, available at <http://africanarguments.org/2017/06/05/amid-silence-atrocities-in-darfur-have-restarted/>; Agence France-Presse, “US, EU urge end to Darfur fighting,” Arab News, June 3, 2017, available at <http://www.arabnews.com/node/1109241/world>.

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⁹ Nuba Reports Sudan Insider, “SAF and SPLA-N trade ceasefire breach accusations,” February 28, 2017, available at <https://nubareports.org/sudan-inside-saf-and-spla-n-trade-ceasefire-breach-accusations/>; Al Tareeq, “The exchange of accusations between the government and the SPLM-N on a military attack on a Sudanese town,” February 21, 2017, available at <https://www.altareeq.info/ar/exchange-of-accusations-between-the-government-and-on-military-attack-on-a-sudanese-town/>; Sudan Democracy First Group, “Militias of Bashir’s Regime and the Proxy War: War in the Blue Nile: Militias in the hunt of refugees and displaced population” (Kampala, Uganda, February 2017), available at <http://www.democracyfirstgroup.org/militiasproxywarbluenile/>; South Kordofan Blue Nile Coordination Unit (SKBNCU), “SKBNCU Humanitarian Update: November 2016- January 2017,” on file with Enough; South Kordofan Blue Nile Coordination Unit (SKBNCU), “SKBN Rainy Season Update: July - November, 2016,” on file with Enough; Nuba Reports, “Signs of War Resume in the Nuba Mountain,” November 26, 2016, available at <https://nubareports.org/signs-of-war-resume-in-the-nuba-mountains/>; Nuba Reports, “Sudan Insider: Lingering conflict in the Nuba Mountains,” August 9, 2016, available at <https://nubareports.org/sudan-insider-lingering-conflict-in-nuba-mts-peace-talks-in-addis-ababa-saudi-arabia-sudan-south-sudan-crisis-and-the-nuba-mts/>; Nuba Reports, “Government breaches ceasefire in Nuba Mountains,” July 20, 2016, available at <https://nubareports.org/government-breaches-ceasefire-in-nuba-mountains/>; Dabanga, “Barrel bombs kill livestock, ruin farms in Sudan’s Blue Nile State,” June 16, 2016, available at <https://www.dabangasudan.org/en/all-news/article/barrel-bombs-kill-livestock-ruin-farms-in-sudan-s-blue-nile-state>; Dabanga, “Condemnation as Sudan bombs South Kordofan civilians,” May 29, 2016, available at <https://www.dabangasudan.org/en/all-news/article/condemnation-as-sudan-bombs-south-kordofan-civilians>.

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