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The Sudan Peace Process

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Summary

Sudan, geographically the largest country in Africa, has been intermittently ravaged by civil war for four decades. More than two million people have died over the past two decades due to war-related causes and famine, and millions have been displaced from their homes. The 20-year civil war has been and continues to be a major contributing factor to recurring humanitarian crisis. There have been many failed attempts to end the civil war in southern Sudan, including efforts by Nigeria, Kenya, Ethiopia, former President Jimmy Carter, and the United States.

In March 1994, the heads of state from Ethiopia, Eritrea, Kenya, and Uganda formed a mediation committee under the aegis of the Inter-Governmental Authority for Development (IGAD) and held the first formal negotiations in March 1994. The basis of these talks was a Declaration of Principles (DOP), which includes the right of self-determination, separation of religion and the state (secularism), and a scheduled referendum to be held in southern Sudan with secession as an option. Although the National Islamic Front (NIF) government reluctantly accepted the DOP in 1994, the government in Khartoum walked out on peace talks in September 1994, and returned only in July 1997 after a series of military defeats.

The Clinton Administration adopted a policy of isolation and containment of Sudan, while at the same time supporting the IGAD peace initiative. Relations for most of the 1990s were dominated by concerns about Sudan's radical Islamic agenda, the civil war, human rights, and the NIF's support for international terrorists and terrorist organizations, including Osama bin Laden who lived in Sudan from 1991-1996. In 1997, the Clinton Administration imposed comprehensive economic and trade sanctions on Sudan. In 1999, the Clinton Administration appointed former Congressman Harry Johnston Special Envoy for Sudan. Special Envoy Johnston made several trips to Sudan and other countries in the region to rally support for the IGAD peace process. By early 2000, serious dialogue on a wide range of issues between the government of Sudan and the Clinton Administration began to take place. Progress was made on counter-terrorism talks, while the IGAD peace process stalled.

The Bush Administration has made Sudan a high priority and President Bush has spoken on Sudan on a number of occasions. In September 2001, President Bush appointed former Senator John Danforth as Special Envoy for Sudan to see if there was a role for the United States in the peace process. The Bush Administration has renewed sanctions imposed by the Clinton Administration, but has relaxed the travel ban that had been imposed on Sudanese officials. Additionally, the Administration has expanded dialogue with the Sudanese government on counter-terrorism and the peace process. The United States is playing key roles in the current IGAD talks by providing financial support and coordinating among key allies in Europe and the Horn of Africa. In December 2002, the Bush Administration invited the Sudan People's Liberation Movement/Army (SPLM/A) and the government of Sudan for two days of talks in Washington, D.C. On April 21, 2003, the Administration submitted its report on Sudan, as required by the Sudan Peace Act (PL 107-245). This report will be updated as events warrant.

Contents

The Conflict: Background	1
Origin of the IGAD Peace Process	2
Changing Dynamics: Recent U.S. Efforts	4
The Current IGAD Talks: Machakos I	7
The Current IGAD Talks: Machakos II	9
Preliminary Agreement on Power-Sharing Arrangements: Third Session of the IGAD Talks	11
Is Real Progress Being Made Between the Government of Sudan and the SPLA?	15
The Optimists	16
The Pessimists	17
The End Game	17

List of Figures

Figure 1. Sudan	20
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Sudan Peace Process

The Conflict: Background¹

In 1956, Sudan became the first country to achieve independence (from Britain and Egypt) in sub-Saharan Africa. For almost four decades, the east African country with a population of 35 million people has been the scene of intermittent conflict. Since the current conflict erupted, more than two million people have died from war-related causes and famine in southern Sudan, and an estimated four million have been displaced. The Sudanese conflict is Africa's longest-running civil war. The sources of the conflict are deeper and more complicated than indicated by the claims of political leaders and some observers. Religion is a major factor because of the Islamic fundamentalist agenda of the current government, dominated by the mostly Muslim/Arab north. Southerners, who are Christian and traditional believers, reject the Islamization of the country and favor a secular arrangement. Social and economic disparities are also major contributing factors to the Sudanese conflict.

The abrogation in 1983 by then President Jaffer Nimeri of the 1972 Addis Ababa agreement, which ended the first phase of the civil war in the south, is considered a major triggering factor in the current civil war. Although the National Islamic Front (NIF) government, which ousted the democratically elected civilian government in 1989, has pursued the war in southern Sudan with vigor, previous governments, both civilian and military, had also rejected southern demands for autonomy and equality. Analysts point out that northern political leaders for decades treated southerners as second-class citizens and did not see the south as an integral part of the country. Southern political leaders argue that under successive civilian and military governments, political elites in the north have made only superficial attempts to address the grievances of the south without compromising the north's dominant economic, political, and social status.

In recent years, most political leaders in the north, now in opposition to the current government, say that mistakes were made in the treatment of the south and that they are prepared to correct them. But the political mood among southerners has sharply shifted in favor of separation from the north.² The current government has pursued the military option aggressively. Economic conditions have deteriorated significantly, and hundreds of thousands of southern Sudanese are at risk of

¹ For more on Sudan's political situation, human rights and humanitarian issues, see CRS Issue Brief IB98043, *Sudan: Humanitarian Crisis, Peace Talks, and U.S. Policy*, by Ted Dagne.

² See Dr. Francis Deng's testimony before the House International Relations Committee, June 5, 200, at [<http://www.sudancare.org/HIRC060502/Deng.htm>].

starvation due to a serious humanitarian crisis, largely caused by the long conflict. Meanwhile, the discovery of oil and revenues from oil have fueled the conflict.³

Origin of the IGAD Peace Process

Alarmed by the deepening crisis and multiple failed attempts by outside mediators, members of the Inter-Governmental Authority for Development (IGAD), a regional organization that promotes cooperation and development, formed a mediation committee consisting of two organs: a summit committee of heads of state from Ethiopia, Eritrea, Kenya and Uganda, and a standing committee composed of their mediators. Preliminary talks were held in November 1993 and January 1994, and formal negotiations began in March and May of the same year. Presented at the May meeting, the Declaration of Principles (DOP)⁴ included the following provisions: the right of self-determination with national unity as a high priority, separation of religion and state (secularism), a system of

governance based on multiparty democracy, decentralization through a loose federation or a confederacy, respect for human rights and a referendum to be held in the south with secession as an option. The NIF government initially resisted the DOP, particularly its endorsement of self-determination and secularism. The Sudan People's Liberation Movement (SPLM)⁵, the political arm of the South's main armed opposition force, the Sudan People's Liberation Army (SPLA) accepted the DOP.

SPLA/SPLM

The Sudan People's Liberation Movement and its armed wing the Sudan People's Liberation Army (SPLA) was founded in 1983, after southern troops mutinied to protest the imposition of Sharia laws by then President Jaffer Nimeri. The SPLA received significant military assistance from Ethiopia and other African countries, and by the late 1980s was in control of all of southern Sudan, except for the regional capital, Juba, and other small garrison towns. In 1991, however, the SPLA split, when senior commanders formed their own faction. The factional fighting that ensued almost destroyed the southern liberation movement. The SPLA lost almost all of its garrison towns and was pushed by government forces to the Ugandan border. By mid-1990s, the SPLA began to recover, and later recaptured most of the towns it had lost to government forces. Under the leadership of the American-educated leader, Dr. John Garang, the SPLA now controls a large swath of land in southern Sudan and has presence in the north as well.

³ *God, Oil and Country: Changing the Logic of War in Sudan*. International Crisis Group (ICG), 2002.

⁴ For more on IGAD's role in the Sudan peace process and official IGAD documents, see [http://www.iss.co.za/AF/RegOrg/unity_to_union/IGAD.html].

⁵ For background on the SPLM/A see Khalid, Mansour. *John Garang Speaks*, 1987.

The IGAD peace process began with the view among the mediators that the Sudan conflict was having serious repercussions not only in the country but also in the region, and then sought to deal with the root causes of the conflict. Conditions were ripe for talks since both sides were exhausted from years of fighting and some members of the IGAD committee were seen by Khartoum as allies. In 1994, however, relations between IGAD member Eritrea and Sudan began to deteriorate, largely due to Sudan's support for an Eritrean opposition group, the Eritrea Islamic Jihad. Meanwhile, serious opposition to the DOP began to emerge from the NIF government. The most contentious issues were secularism and self-determination, which the Khartoum government refused to concede.

In July 1994, the polarization of the two sides intensified after the Khartoum government appointed a hard-line NIF member to its delegation. The Khartoum delegation professed the government's commitment to Islamic law as part of a religious and moral obligation to promote Islam in Sudan and throughout the continent, and rejected self-determination as a ploy to split the country. In September 1994, President Moi of Kenya convened a meeting of the committee's heads of state, Sudan's President Bashir and the leader of SPLM/A. The Khartoum government walked out of these peace talks, rejecting the DOP. However, military setbacks and intense international pressure forced the government back to the negotiating table in Nairobi in 1997 and it formally accepted the DOP. The return to the IGAD process was, in part, in recognition of the government's failed effort to attract other mediators, who might have been more supportive of NIF positions.

Further meetings in 1997-1998 sought to narrow divisions between the two sides, with the government of Sudan formally agreeing to self-determination for the south. The government of Sudan also appeared willing to compromise on some other issues. In May 1998, the parties, despite some progress earlier, disagreed on which territories were considered part of the south. The Khartoum delegation defined the south as the three provinces of Bahr el Ghazal, Equatoria, and Upper Nile, established at independence in January 1956. The SPLM/A argued that Southern Kordofan Province and Southern Blue Nile Province and other areas on the margins of the three core provinces were also part of the south. There were also serious disagreements on the duration of the interim period before a referendum on self-determination, and issues relating to interim arrangements were shelved by the mediators in part to avoid a breakdown in the talks. The question of religion and state remained unresolved.

The United States and the European Union praised Khartoum's acceptance of self-determination as a major step forward. However, some observers characterized the agreement on self-determination as a small step in the right direction after years of stalled efforts. The most contentious and difficult issues were yet to be tackled by IGAD mediators, including the separation of religion from politics and interim arrangements prior to the referendum. Some observers argued that it was too soon to judge whether the concession on self-determination represented a change in Khartoum's position or a tactical move to buy more time. A follow-up meeting between the parties took place in Addis Ababa, Ethiopia in early August 1998. The talks collapsed due to differences on the role of religion in politics. The parties also disagreed again on the territorial definition of southern Sudan for the purpose of referendum. In February 2000, the parties met in Nairobi but failed to make progress.

In early June 2001, President Moi reconvened the stalled IGAD peace talks in Nairobi. No progress was made, according to a press release issued at the conclusion of the talks. In January 2002, IGAD mandated President Moi to merge the IGAD peace process with the Egypt-Libya Initiative (ELI), a peace initiative launched by the governments of Egypt and Libya in 2000.⁶

Of all the past peace efforts,⁷ the IGAD peace process did the most to help narrow the differences between the government of Sudan and the SPLM. But IGAD was never close to resolving the Sudanese conflict because of multiple factors. Perhaps one of the most serious obstacles to peace in Sudan was the

Past Peace Efforts

- The Juba Conference (1947)
- The Khartoum Roundtable Conference (1965)
- The Addis Ababa Agreement (1972)
- The Koka Dam Declaration 1986
- The DUP-SPLM Declaration
- The Carter Center initiative (1989)
- The U.S. Initiative (1989-1990)
- The Abuja Peace Process (1992-1993)
- The IGAD peace Process (1993-current)
- The Egypt-Libya initiative (2000-current)

government's notion that the war could be won and the SPLM/A defeated. Indeed, with the split of the SPLM/A in 1991 and its loss of allies in the region, the NIF government had retaken most of the territory that had been under SPLM/A control for years. By mid-1990s, however, the SPLA had retaken territories captured by the government, once again changing the dynamics on the ground. Regional dynamics in the conflict-prone Horn of Africa contributed to the persistence of the conflict. Both the government of Sudan and the SPLM/A relied on the support of regional actors, enabling both sides to survive setbacks and creating a sort of balance of power between them. Shifting alliances, however, ensured continued instability in the Sudan. The NIF's flirtation with international terrorism and radical Islam contributed to NIF isolation and limited its capabilities for defeating the SPLA. The policies of the United States and its allies focused more on isolating Sudan than pursuing peace efforts, some believe. Competing regional initiatives, such as the one pursued by Egypt and Libya, however, undermined the IGAD efforts, according to observers and U.S. officials.

Changing Dynamics: Recent U.S. Efforts

Beginning mid-1999, the government of Sudan sought to soften its image and called for improved relations with the United States. The Clinton Administration appointed former House Africa Subcommittee Chairman, Congressman Harry Johnston, as Special Envoy to Sudan. Members of the European Union began a

⁶Alistair Lyon. *Egypt, Libya Trying for Peace in Sudan*. Reuters, October 18, 1999.

⁷For more on Sudan peace efforts, see Steven Wondu and Ann Lesch. *Battle for Peace in Sudan*, 2000.

“critical dialogue” with the regime in Khartoum.⁸ In 2000, then Assistant Secretary of State for Africa, Susan Rice, met with Sudanese Foreign Minister and gave him a document which outlined U.S. demands for improved relations. The government of Sudan agreed to implement some of the reforms demanded by Washington and agreed to stationing of U.S. counter-terrorism officials in Khartoum to deal with the government of Sudan on issues relating to international terrorism. Clinton Administration officials encouraged the SPLM/A and the government of Sudan to

stick to one peace process, IGAD, and provided financial support to the IGAD Peace Secretariat. Concerned about lack of progress in the peace process, Clinton Administration officials also sought to bring the IGAD peace process to Washington, D.C. and initially received the support of both the SPLM/A and the government of Sudan. But the plan failed to materialize because of Khartoum’s insistence on the lifting of U.S. and U.N. sanctions as a condition for its participation.

On September 6, 2001, President George W. Bush appointed former Senator John Danforth as Special Envoy for peace in the Sudan. During a White House ceremony, President Bush stated that "for nearly two decades, the government of Sudan has waged a brutal and shameful war against its own people. And this is not right, and this must stop." President Bush affirmed his Administration's commitment to "bringing stability to the Sudan."⁹ In response, envoy Danforth stated that "the effectiveness of America's efforts for peace in Sudan will depend on our communication and cooperation with other interested countries, including the European Union and countries neighboring Sudan, especially Egypt and Kenya." In late November 2001, Danforth made his first visit to Sudan and other neighboring countries to assess the Sudan peace process and humanitarian conditions. In Khartoum, he met with President Bashir of Sudan and senior government officials. He also met with senior officials of the Sudan People's Liberation Movement (SPLM). In Nairobi, Kenya, he met with President Daniel arap Moi, and in Egypt Danforth met with President Hosni Mubarak and senior government officials.

U.N./U.S. Sanctions

The United Nations imposed sanctions on the government of Sudan, after the assassination attempt on Egyptian President Hosni Mubarak in Ethiopia in 1995. The government of Sudan was implicated in the assassination attempt. Washington also imposed a number of sanctions on the government of Sudan in response to human rights violations and the government’s support for international terrorism. In November 1997, the Clinton Administration imposed comprehensive economic and trade sanctions on Sudan. President Bush has renewed these sanctions in 2002.

⁸ For more on the Clinton Administration’s policy toward Sudan, see CRS IB98043, *Sudan: Humanitarian Crisis, Peace Talks, terrorism, and U.S. Policy*, by Ted Dagne.

⁹Text of President Bush’s speech is available at White House website: [<http://www.whitehouse.gov>].

Danforth was given the mandate to ascertain if there was a role for the United States to play in the peace process. As part of his mandate he first sought to test the parties to the conflict to determine if they were serious about a negotiated settlement. He proposed four confidence building measures. These included (1) a cease-fire in the Nuba Mountains region to facilitate relief assistance; (2) the creation of "days of tranquility" to administer immunizations and provide humanitarian relief assistance; (3) an end to aerial bombardment of civilian targets; and (4) the creation of an Eminent Persons Group on slavery in Sudan. Under the NIF government slavery had become more widespread. Danforth successfully secured agreement from the parties in all four areas. In April 2002, Danforth submitted his report to President Bush, made a number of recommendations, and gave his assessment of the situation concerning the peace process.

Danforth concluded that there is a role for the United States in the peace process.¹⁰ The Danforth report recommended that the United States support the IGAD peace process and help coordinate it with other initiatives. Some observers interpreted his recommendation as an endorsement of constructive and energetic U.S. engagement in the peace process, currently spearheaded by Kenya. Others saw a rejection of a unilateral or U.S.-led peace initiative. The Danforth recommendation reaffirms continued U.S. support of and preference for the IGAD peace process, which had been pursued by the Clinton Administration for several years. The policy to remain engaged in support of the IGAD peace process did not represent a change in U.S. policy, although the levels of engagement and financial and political support subsequently increased significantly. Another conclusion by Danforth was that the war is not winnable by either side to the conflict. Thus, he concluded, a negotiated settlement is the only option. This conclusion echos the long-standing conventional wisdom that the war is stalemated.

Danforth and Bush Administration officials consider the Nuba cease fire agreement as a success and suggest that the progress on the other three confidence building measures should be seen as an expression of the parties' continued commitment to a negotiated settlement. Danforth and Bush

Administration officials suggest the Nuba cease-fire agreement is a model that can be utilized to reach a comprehensive cease-fire agreement and as a breakthrough for the peace process. SPLM/A officials were initially concerned, however, that they might be coerced into a comprehensive cease-fire agreement without an overall political settlement of the conflict. Some Sudan observers asserted that while the Nuba cease-fire agreement paved the way for much needed humanitarian assistance

U.S.-Mediated Agreements

- The Nuba Ceasefire Agreement
- Days of Tranquility Agreement
- The Civilian Protection Agreement
- The Eminent Group to Investigate Slavery
- The Cessation of Hostility Agreement

¹⁰Danforth's report to President Bush is available at [<http://www.whitehouse.gov/news/releases/2002/05/20020514-11.html>].

to the most neglected region of Sudan, the agreement was only a small step in the right direction.

Danforth's other three confidence building measures show limited progress. The agreement on "days of tranquility" has been stalled. The civilian protection agreement, which was designed to protect civilians from deliberate military attacks, though signed by the parties in March 2002, did not issue its first report until December 2002. The Eminent Persons Group, led by the United States with other members of the international community to investigate slavery in Sudan, submitted its findings and recommendations in May 2002. The Group concluded that "in a significant number of cases, abduction is the first stage in a pattern of abuse that falls under the definition of slavery in the International Slavery Convention of 1926 and the Supplementary Convention of 1956."¹¹ The Group also affirmed the widely held view that the government of Sudan provides direct support to armed groups engaged in abduction and slavery. The Group made sweeping recommendations to address the problem, but did not make specific proposals for an enforcement mechanism.

President Bush asked Senator Danforth to stay on as his envoy, although the day-to-day work is being carried out by an inter-agency group. The State Department has sent a senior diplomat to Khartoum and is expected to increase the number of diplomats at the embassy. Moreover, the Administration has been actively engaged in mobilizing the international community in support of the IGAD peace process. The Bush Administration played key roles in strengthening the working relationship of the so-called Troika: Norway, Britain, and the United States. Meanwhile, other U.S. government agencies are expanding their activities in Sudan. USAID has significantly increased its development programs in southern Sudan and U.S. counter-terrorism experts continue their dialogue with their counterparts in Khartoum. These multiple engagements, many believe, may enhance peace efforts, and they have led to improved relations between the United States and the government of Sudan.

The Current IGAD Talks: Machakos I ¹²

In late June 2002, IGAD mediators presented the government of Sudan and the SPLM/A with a "Draft Sudan Peace Agreement" proposal. The Draft Proposal dealt with a number of critical issues facing the two parties to the conflict. On the issue of self-determination, the Draft Proposal altered the long-standing position of IGAD and its Declaration of Principles. IGAD in its DOP specifically endorsed self-determination for south Sudan. In contrast, the 2002 "Draft Sudan Peace Agreement," proposed a "Pre-Transition" period that would last about six months and a "Transition" period that would last no more than four years. The Proposal did not address the issue of a referendum directly and instead suggested that "the people

¹¹The Eminent Persons Group report is available at [<http://www.state.gov/r/pa/prs/ps/2002/8915.htm>].

¹² The Kenyan city of Machakos was the site of these talks. Sources used for this section are U.S. officials, IGAD Peace Secretariat, SPLA officials, and regional experts.

of southern Sudan shall be consulted; this popular consultation shall solicit the views of southern Sudanese in regard to self-determination arrangements as set out in this agreement.”

Members of the SPLM/A delegation and their supporters viewed the proposals as unacceptable and a total abandonment of their basic right to determine their political future. They objected to the proposed government structures and the authority given to the “national government,” and to what they saw as the diminished role for southerners within the proposed framework, asserting that southerners would be getting less than what they got in the 1972 Addis Ababa Agreement. The government of Sudan accepted the proposed draft agreement with a few amendments, since the draft agreement was similar to the government’s previous offers. The SPLM/A delegation expressed concerns and gave its response to the mediators, arguing for a shorter transition period and demanding clarity on the issue of self-determination.

The Draft Proposal was similar to an earlier proposal presented by the Kenyan Special Envoy in early 2002. According to that proposal, self-determination would be replaced by self-administration, and separation of religion and state would be substituted for “religious tolerance.” In addition, the proposal called for a cease-fire agreement before final political settlement, a position that has long been rejected by the SPLM/A. Many observers argued then that the ill-fated proposal was a non-starter, on grounds that the SPLM/A would not make concessions on these two issues. Indeed, after a discussion between President Moi and the leader of the SPLM/A, Dr. John Garang, President Moi agreed with Dr. Garang that this agreement did not offer anything to southerners.

The SPLM/A and its supporters assumed that was the end of that proposal. But the June Draft Proposal seemed to suggest, considering the similarities of the two, that the earlier thinking was never abandoned by the mediators. According to some observers, the strategy of the mediators appeared designed to appease the government and seek concessions from southerners. This strategy appeared to presume that the government was stronger and more cooperative than before; and that concessions had to be made to win the government’s acceptance without which there could be no deal. Another assumption may have been that if the SPLM/A rejected this proposal, it would be labeled as the obstacle to peace and would be isolated and marginalized. But some analysts argue that this line of thinking achieved quite the opposite results: it unified southerners and opened the door for more violence and intransigence.

Hours before the deadline for the signing of the Draft Agreement, the mediators reportedly realized that the omission of self-determination from the agreement was a serious error and that the Draft Agreement altered IGAD’s longstanding support for self-determination and took inadequate account of the government of Sudan’s stated acceptance of the proposal. The Draft Agreement was re-written and a new phase of negotiations began. After a series of give and take discussions and intense pressure on the parties, especially on the government of Sudan, the parties reached what some see as a potentially historic agreement. On July 20, 2002, the government of Sudan and the Sudan People's Liberation Army, after five weeks of talks in Machakos,

Kenya, signed a Framework Agreement¹³ to end the war in southern Sudan. The Machakos Protocol calls for a 6-year transition period and a referendum on the political future of southern Sudan at the end of the transition period. The Agreement establishes an independent Assessment and Evaluation Commission to monitor and evaluate the implementation of a final peace agreement. The Machakos Protocol also exempts southern Sudan from the Islamic law or Sharia. The United States, the United Kingdom, and Norway participated as observers in the Machakos IGAD negotiations.

The Framework Agreement is seen by the mediators and some observers as a major breakthrough in the long stalled IGAD peace process. The government of Sudan had favored the earlier Draft Agreement, which neglected self determination for the South and down-played the separation of religion and the state. The Framework Agreement by contrast gave both sides something to take back to their constituencies. The government of Sudan was able to point to the fact that it could continue its Sharia laws in the North, while the SPLM/A was able to emphasize the agreement on a referendum to determine the political future of southern Sudan, after a six year transition period. The SPLM/A appeared to have made important concessions at Machakos, paving the way for the Framework Agreement. The SPLM/A had long insisted on a short transition period, two to four years. The government had long insisted on a ten year transition period. The SPLM/A accepted a longer transition period in order to give unity a chance, according to members of the SPLM/A delegation at the talks. The SPLM/A also abandoned its long standing opposition to Sharia by agreeing to the continuation of Sharia laws in the North. The government of Sudan's acceptance of a referendum at the end of the transition period was also seen as an important concession.

The Current IGAD Talks: Machakos II

The second phase of the negotiations in late 2002 proved difficult. There were significant disagreements on a wide range of issues. The parties met to discuss the transition period in mid-August 2002 and agreed to the following agenda: (1) Structure of Government: (a) Power Sharing, Wealth Sharing, Human Rights, and Judiciary and the Rule of Law; (2) Security Arrangements; (3) Modalities for Implementing the Peace Agreement; (4) Regional and International Guarantee. The first two weeks were designed for briefing and lectures by experts on a wide range of issues relating to nation building and conflict resolution. Shortly after, the parties were given a 51-page report called *Draft Protocol on Power Sharing Within the Framework of a Broad based Transitional Government of National Unity Between the Government of Sudan and the SPLM*.¹⁴ The parties were asked to respond to the mediators' draft.

¹³ Text of the Framework Agreement is available at [<http://www.state.gov/r/pa/prs/ps/2002/8915.htm>].

¹⁴Text of the agreement is available at [http://www.iss.co.za/AF/RegOrg/unity_to_union/IGAD.html].

In August 2002, however, tensions began to mount on the ground. Government forces attacked a number of garrison towns controlled by the SPLM/A, and SPLM/A forces retaliated by attacking the government's main garrison town in Eastern Equatoria, Torit. On September 2, 2002, a day after the capture of Torit, the government of Sudan withdrew from the talks. In a press release, the government stated that it had withdrawn because of SPLM positions on power sharing and the status of the national capital (see below), even though most observers were convinced the withdrawal was in reaction to the loss of Torit. The government of Sudan demanded the withdrawal of the SPLM/A from Torit and a cease-fire agreement as a condition for its return to the negotiations. In late September, the government intensified its military campaign in the East and massed troops around Torit. In early October 2002, the government of Sudan returned to the negotiations after its forces re-captured Torit in southern Sudan. Based on what they characterized as a confidence building measure, the SPLM/A reversed an earlier opposition and agreed to a cessation of hostilities agreement.

The second phase of the negotiations at Machakos focused on a wide range of issues relating to Power and Wealth Sharing arrangements.¹⁵ On the question of the Presidency there were significant disagreements between the parties. The SPLM/A initially proposed a rotation of the presidency during the interim period. The first three years under Bashir's presidency with the SPLM/A in the vice president slot, and the reverse for the second half of the interim period. The government of Sudan rejected the SPLM/A proposal. The SPLM/A then proposed that Bashir could keep the presidency for the entire interim period provided that the SPLM/A was given the first Vice President slot. The government was at first receptive to the idea, but then rejected the SPLM/A proposal arguing that there should be several vice presidents and the President (Bashir) should fill these slots. Members of the government's delegation expressed concerns that to give the first vice president slot to the SPLM/A would be risky since in the event the president were incapacitated, the first vice president (SPLM/A) would assume the presidency. The SPLM agreed to the proposal of creating several vice president slots, but insisted that the first vice president slot with genuine powers should be given to the SPLM.

There were also disagreements on Power Sharing arrangements in the Executive, Legislature, the Civil Service, and the Judiciary. Both the government of Sudan and the SPLM/A agreed on SPLM/A participation in all these government structures. The SPLM/A argued that due to historical injustices, southerners should get 40% of the seats in the Lower House and 50% in the Upper House. The SPLM/A accepts the fact that southerners may only represent a third of the population, while pointing out the absence of a reliable population census. The SPLM/A argues that it is important to maintain a 50-50% representation in order to avoid abuses of power by the majority in the Upper House. The government contends that southerners represent less than 20% of the population and thus do not deserve to have 40/50% of the seats in the Legislature. The mediators have proposed a 33% representation for the SPLM/A. In the Executive (cabinet) and the Civil Service, the SPLM/A

¹⁵For more on Power and Wealth Sharing negotiations, see *Power and Wealth Sharing: Make or Brake Time in Sudan's Peace Process*, ICG. December 18, 2002.

demanded 40% of the positions in all levels, while the government of Sudan offered 20%.

Negotiations on the status of the national capital were also contentious. There is agreement that the national capital would continue to be Khartoum. But the SPLM/A insists that the national capital, which has a large population of non-Muslim southern Sudanese, should be secular and not bound by the Sharia laws of Khartoum State. At Machakos I both sides agreed that the South would be exempted from Sharia and the North could have Sharia. But the status of the capital was not discussed. As a counter-proposal, the SPLM/A suggested that an enclave in Khartoum should be Sharia free and the rest of the capital could continue to have Sharia. The government rejected the SPLM/A proposal and charged that discussion on this issue could unravel agreements reached at Machakos I. Observers note that while on the surface disagreement on this issue seems minor, the influencing factors behind the disagreement are very serious. At the core of this debate is the role of religion in politics, the very same issue that led to the second phase of the civil war, after then President Nimeri imposed Sharia in the South in 1983.

On Wealth Sharing there was general agreement that more funds should be allocated for southern Sudan. There were significant disagreements, however, on ownership of natural resources, economic policy, and on revenue sharing. The government of Sudan maintains that all unregistered land belongs to the state, while the SPLM/A contends that land belongs to the community. The SPLM/A argues that because of historical neglect of the south a significant share of revenues, especially oil revenues, should go to the South. The SPLM/A demanded 60% of the revenues from oil, while the government of Sudan offered 10%. The government contends that the National Government will require significant funds to finance reconstruction and development of the entire country during the transition period. Another contentious issue was the Sudanese banking system and the recent introduction of a new currency in southern Sudan by the SPLM/A. The SPLM/A argues that the current banking system is based on Islamic laws and is incompatible with the economic system in southern Sudan.

Preliminary Agreement on Power-Sharing¹⁶ Arrangements: Third Session of the IGAD Talks

The government of Sudan and the SPLM met in late January 2003, after several days of delay due to disagreements on the agenda for the talks and because of violations of the Cessation of Hostilities agreement by the government of Sudan. In order to avoid future ceasefire violations, the mediators strengthened the Cessation of Hostilities Agreement, signed in October 2002, by adding several provisions. The new measures, agreed to on February 4, 2003, include the return of the civilian population to their home areas, the return of territories taken in the recent attacks, and the creation of a Verification and Monitoring Team (VMT).

¹⁶ Sources for this section are internal IGAD documents, interviews with SPLA, U.S., and IGAD officials.

The government of Sudan and the SPLM delegations met in Karen, Kenya in late January-early February 2003 to discuss power and wealth sharing arrangements for the Interim Period. The parties reached agreement in principle on some aspects of power and wealth sharing, but remained far apart on a number of key issues. In previous talks, the negotiations were stalled because the parties could not agree on allocation of parliamentary seats, civil service positions for Southern Sudanese, share of revenues from oil and other resources, and power-sharing arrangements in the Executive. During the recent talks, the parties agreed to move away from percentages and agreed on a formula of “equitable” power and wealth sharing arrangements. While there appears to be broad understanding and agreement about the formula, the prospects for misinterpretations are substantial. The mediators appear eager to reach agreements where possible and avoid contentious issues, leaving unresolved issues for a later date. The limited success on power and wealth sharing issues hinges completely on the idea of “equitable” sharing of power and wealth. The real challenge is likely to come when the parties begin to discuss what “equitable” means to each side. The SPLM asserts that decades of neglect of and discrimination against the South should be compensated by giving Southerners more than what they have been offered in the past. The government of Sudan argues that other Sudanese communities also deserve attention.

The mediators hope to bridge the gap between the two sides once they secure agreement on the key issues of power and wealth sharing, the national capital, the marginalized areas of the Nuba Mountains, Abyei, and Southern Blue Nile, and final security arrangements. The parties have begun discussion on the marginalized areas after days of wrangling over the composition of the delegations and agenda for the talks. The government of Sudan insisted that members of the delegation of the other side should consist of and should be led by people from the respective areas. Members of the SPLM delegation argued that the government of Sudan should not dictate the makeup of the SPLM delegation since the Movement is not dictating the composition of the government’s delegation. The SPLM later agreed to the government’s demand. The delegations then adopted an agenda for the talks, after they agreed to discuss the three areas in three subcommittees for the regions consisting of eight individuals from each side.

The mediators and some observers are cautiously optimistic about the talks, although the optimism seems to reflect simply the fact that the talks are on-going and have not collapsed.¹⁷ There has not been a major breakthrough in the talks since the parties signed the Framework Agreement on self-determination and religion and state in July 2002. In the January-February talks, the parties agreed to establish a National Unity Government and bicameral legislature. The parties also agreed to hold elections during the interim period, after rehabilitation, reconstruction, and repatriation in Southern Sudan. The structure of the government and the relationship between the governing entities is not clear. The National Unity Government would consist of the current government and the SPLM. It is not clear, however, what role, if any, other opposition groups would have in the National Unity Government. The broad outline agreement is vague about what specific role the SPLM would have in

¹⁷ See Special Envoy Lazaro Sumbeiywo’s letter to Secretary of State Powell, available at [<http://www.state.gov/p/af/ci/su/c9101.htm>].

the Executive, although the parties have agreed President Omar Bashir would remain the head of government during the interim period. The mediators hope that the decision-making process in the Executive would be one of respect for authority and partnership.

The parties agreed to “equitable” representation in both chambers of the legislature without specifying the composition of the parties. The mediators attempted to clarify what they meant by “equitable” sharing of power in the Legislature and Executive. The mediators assert that “relevant considerations shall be taken into account in determining what constitutes equitable representation.” What is meant by “relevant considerations” is not clear, however. Some aspects of the agreement on the National Civil Service shed light on what is considered “relevant considerations.” According to the agreement, several principles shall be applied in determining the level of representation and the number of positions that could be allocated for Southern Sudanese. These principles include: “imbalances and disadvantages which exist must be redressed; merit is important and training is necessary; fair competition for jobs; no level of government shall discriminate against any qualified Sudanese citizen on the basis of religion, ethnicity, region, gender, or political beliefs; and the National Civil Service will fairly represent all the people of the Sudan.” This general outline of the guiding principles appears to satisfy the demands of the parties. The government is likely to emphasize fair representation of the people of Sudan, merit and fair competition, since Northerners are better educated and have more experience in government service. The SPLM, on the other hand, is likely to focus more on the need to redress decades-old neglect and discrimination, and effective utilization of affirmative action for Southerners.

The proposed Executive will consist of the President, Vice President(s), and a Council of Ministers. The parties have yet to agree on the role and number of vice presidents. The SPLM had initially proposed a rotation of the presidency and after a contentious debate dropped its proposal. It is not clear under the current arrangement if the SPLM would get the Vice President position, with executive powers, or take one of several Vice President positions. The Executive will have broad powers in matters of national security and administration of the federal government. Allocation of cabinet positions is expected to be addressed before a final peace agreement is signed. The mediators deliberately avoided dealing with allocation of posts in the National Unity Government because the parties could not agree in previous talks. The reluctance by the government of Sudan to accept a rotational presidency in the initial phase of the talks and disagreement over the powers of the Vice President has contributed to an erosion of confidence between the parties and uncertainty about the commitment of the government of Sudan to a real power-sharing arrangement with the SPLM. The leader of the SPLM, Dr. John Garang, is under intense internal and external pressure not to make further concessions. Some senior members of the Movement contend that the SPLM has made a number of important concessions, while the government of Sudan continued to hardened its positions. In March 2003, at a leadership council meeting in Southern Sudan, the SPLM leadership acknowledged that unwarranted concessions were made during the January talks and that corrective measures would be taken.

The parties made some progress in the wealth-sharing talks, although final agreement was not reached. Using the same formulation of “equitable” sharing, the

parties dropped the contentious formula of percentage sharing of wealth. The SPLM in the earlier talks had demanded 60% of the oil revenues, while the government offered 10%. The current preliminary agreement states that “the sharing and allocation of wealth shall be based on the premise that all parts of Sudan are entitled to development.” The agreement also emphasizes that “the parties agree that the Southern Sudan faces serious needs.” The agreement gives the National Unity Government broad powers to collect taxes and manage national resources. On the issue of land ownership, the parties agreed that “the regulation of land tenure, usage and exercise of rights in lands is to be a concurrent competency exercised at the appropriate levels of government.” The agreement on land ownership is vague and vulnerable to various interpretations by the parties. The parties may construe the phrase “concurrent competence..at the appropriate levels of government” to mean in the case of the government of Sudan the National Unity Government in which the current government is expected to dominate and the SPLM could interpret the phrase as one that gives authority to the government of Southern Sudan.

The parties agreed that existing oil contracts “shall not be subject to re-negotiations.” Some top SPLM leaders contend that the Movement gave too much by allowing existing contracts to stay in place. The SPLM and human rights organizations have repeatedly accused oil companies operating in Sudan of supporting the government of Sudan’s “scorched earth”¹⁸ policy in the oil-producing regions of Southern Sudan. It is not clear what role the government of Southern Sudan would have in new contracts. It is also not clear if the parties’ interpretation of “concurrent competence” applies to oil resources. Moreover, the parties agreed that “if contracts are deemed to have fundamental social and environmental problems, the government of Sudan will implement the necessary remedial measures.” The negative social and environmental impact in the oil-producing regions in Southern Sudan has been reported on by human rights organizations.¹⁹ The SPLM is likely to use this provision to influence new contract negotiations and re-negotiate existing contracts with oil companies.

The parties agreed to establish a Fiscal and Financial Allocation and Monitoring Commission (FFAMC). The Commission is directed to ensure fair allocation of funds to the states/regions, and the government of Southern Sudan. The formula the parties agreed to in determining the amount of allocation of funds is largely based on the Gross Domestic Product (GDP), although final agreement is not reached on this provision. According to this formulation, 0.6% of the GDP will go to the government of Southern Sudan for basic government functions in 2003. An estimated 3% (2003), 3.2% (2004), 3.4% (2005), 3.6% (2006), and 3.4% (2007) of the GDP will go for repatriation, rehabilitation, resettlement, reintegration, and reconstruction purposes. Based on this formulation and assuming growth in GDP, the government of Southern Sudan could receive an estimated \$615 million in 2003, \$713 million in 2004, \$837 million in 2005, \$972.9 million in 2006, and \$1.04

¹⁸Christian Aid. *The Scorched Earth: Oil and War in Sudan*, March 2001.

¹⁹ Amnesty International. *Oil in Sudan: Deteriorating Human Rights*, June 2000.

billion in 2007.²⁰ The parties also agreed on the contentious issue of external debt. The SPLM had consistently argued that the South would not be responsible for the external debt of Sudan since these funds were used to subjugate Southerners and that the funds were never used to develop the South. The SPLM delegation dropped its opposition to the assumption of responsibility for the external debt after several days of debate.

Is Real Progress Being Made Between the Government of Sudan and the SPLA?

Many observers and the parties to the conflict agree that negotiations between the government of Sudan and the SPLA have made some progress over the past several months.²¹ The mediators are portraying a positive picture and appear determined to keep the parties engaged in the negotiations. However, the optimistic scenario of peace within reach is not shared by some observers who believe that the Sudan conflict may require more time to resolve. Some analysts are concerned that in the absence of trust between the parties and mounting tensions, the talks might collapse. Some SPLM leaders charge that the government of Sudan is dragging out the talks in order to launch a full scale attack against the South. According to some U.S. officials and regional experts, the government of Sudan seems to be under intense pressure from within to finish off the SPLA militarily rather than to make concessions and threaten the unity of the country. Indeed, there were no major breakthrough agreements since July 2002. There was small, yet incremental progress made in the last round of talks. The parties, moreover, seem committed to continuing the negotiations.

The most notable achievements of the negotiations thus far are improved humanitarian conditions, relative peace and stability in South Sudan, and the asserted desire of the parties to reach a just and lasting peace. In recent months, humanitarian conditions have improved significantly. Large scale suffering and death by starvation is becoming a thing of the past, with humanitarian assistance being delivered to the needy largely unimpeded.²² Moreover, there has been no major military confrontation between the government of Sudan and the SPLA since the signing of the Cessation of Hostilities Agreement in October 2002, although government forces and allied militia attacked SPLA forces on a number of occasions in Western Upper Nile in late 2002. The last six months have been a notably peaceful and stable period in Southern Sudan. Fewer civilians have been targeted by government forces in the last several months than at anytime in the past decade, although civilians in Western

²⁰ Interview with senior SPLA officials in Washington, March-April 2003.

²¹ See a speech by the Foreign Minister of Sudan, Mustafa Ismail, at the Woodrow Wilson Center, May 21, 2003.

²² See the testimony by Roger Winter, Assistant Administrator for Democracy, Conflict, and Humanitarian Assistance (USAID), before the House Africa Subcommittee. May 13, 2003. Available at [http://www.usaid.gov/press/spe_test/testimony/2003/ty030513_1.html].

Upper Nile reportedly continue to suffer from government-instigated violence and a policy of displacement.²³

The Optimists. The optimists argue that a peace agreement could be reached by the end of June 2003.²⁴ They assert that agreements or understanding have been reached on a wide range of issues. Indeed, comparisons of current negotiations to previous attempts, including the Nigeria-sponsored Abuja peace process and the Egypt-Libya Initiative, suggest that the current IGAD-led talks have achieved much more than the others. Moreover, the parties to the conflict seem to be more committed this time around than on previous occasions. While the parties may not be absolutely certain of the end game, there are reported signs that the parties could be preparing themselves politically and psychologically for an eventual settlement. This is seen as a major departure for both sides from their previously held positions. Indeed, both sides have their respective hardliners, who continue to undermine the process. What observers see as new and interesting about this process is the fact that these factions do not appear to enjoy strong support within their respective camps and therefore are less likely to succeed.

Analysts believe that external factors are also influencing the negotiations for the better. Shifting alliances in the region have had a positive impact on the peace process. Improved relations between longtime arch enemies Uganda and Sudan, for example, have helped those within the NIF who have been urging diplomatic solutions with regional actors and negotiations with the SPLA. The two-year war between Ethiopia and Eritrea, which led to the dissolution of the Frontline States assembled against the NIF regime in Khartoum, helped the NIF regime improve relations with neighboring Ethiopia. Moreover, Sudan's rapprochement with Egypt strengthened the standing of the government of Sudan in the Arab world. Meanwhile, SPLM's careful courting of the Egyptian government in recent years, which eased Cairo's fear of a divided Sudan, may have contributed to the limited success of the IGAD-led peace process.

Some observers, who are cautiously optimistic, acknowledge that although progress was made in the initial talks, there have been no breakthroughs in recent months. These observers see that the lack of progress concerning the security arrangement, the three disputed areas (the Nuba Mountains, Abyei, and Southern Blue Nile), and the status of the national capital as due in large part to the difficult nature of the issues. Solving these issues, they argue, will require assertive and forceful engagement by the United States and its peace partners. President Bashir of Sudan and the leader of the SPLM, Dr. John Garang, have met twice since the signing of the Framework Agreement in July 2002 in an effort to build confidence between the two leaders. The parties also may also have made more progress on some of the most contentious issues behind closed doors than is publicly known. The second round of talks on wealth and power sharing, for example, concluded with major disagreements on a wide range of issues. A follow-up meeting, with technical

²³For a detailed description of conditions in southern Sudan, see the Bush Administration reports to Congress. They can be found at [<http://www.state.gov/p/af/ci/su/c9101.htm>].

²⁴ In early April 2003, President Bashir and Dr. John Garang, after a summit in Kenya, stated that an agreement can be reached by the end of June 2003.

support by the World Bank and the IMF, on the same issues reportedly produced significant results, but the agreements have not been made public.

The Pessimists. Pessimists emphasize that significant challenges remain to any peace settlement in Sudan. Some analysts and Sudanese opposition groups are not convinced that the government of Sudan is truly committed to a just and lasting peace. They argue that its apparent change in behavior is temporary and tactical in large part out of fear of sanctions that might be imposed by the United States. Indeed, the foot dragging on political reform and counter-terrorism cooperation by the Sudanese government abruptly ended shortly after the September 11th terrorist attacks. One serious concern is that a faction led by First Vice President Osman Taha is opposed to the peace process, according to regional observers and U.S. officials. This faction, the core of the Islamist wing of the government, reportedly prefers to pursue the military option, especially in light of increased oil revenues. In recent years, the government of Sudan has purchased sophisticated weapon systems, including helicopter gunships and has significantly expanded its domestic production of weapon systems.²⁵ Moreover, some observers suggest that the Islamists fear that a peace agreement with the SPLA could weaken the Islamic Movement and eventually end their grip on power. Some have suggested that Vice President Taha is concerned that if there is a peace agreement he would have to give up the vice president slot to the SPLA, as the negotiations on power sharing seem to suggest. In recent weeks, however, Taha has suggested that he now supports the peace process and would like to play a direct role in the talks.

Several other factors could also complicate a final deal between the SPLA and the government of Sudan. The North is increasingly divided. The traditional parties, the Umma and the Democratic Unionist Party (DUP), are splintering and remain outside the peace process. The recent meeting of the National Democratic Alliance (NDA) in Eritrea clearly demonstrated the potential pitfalls if Northern groups opposing the government of Sudan remain outside the peace process. Many NDA members are unhappy that the SPLA unilaterally signed agreements with the government of Sudan and consider the acceptance of *Sharia* (Islamic law) in the North as a serious mistake. In early 2003, a major rebellion in Darfur State erupted, forcing government forces to deploy to an area that had been peaceful for years. The Darfur crisis has serious consequences for the government of Sudan.²⁶ The rebellion appears to enjoy popular public support and has gained ground against government forces. The majority of the people in Darfur are of African and Muslim decent. Moreover, the backbone of the Sudan army comes from the Darfur region, leading some observers to speculate that the unexpected success of the rebels may be attributed to the support they may have received from the Sudanese army itself. The rebellion also is reportedly receiving assistance from Chad. The Zagawa are a major tribe in the rebellion and the tribe of President Idris Deby of Chad.

The End Game. The end game is likely to be more contentious as the parties attempt to resolve difficult issues. The most contentious issue will be security

²⁵ Stratfor. *Sudan and Russia Forging New Ties Around Oil and Arms*. January 22, 2002.

²⁶ *Ceasefire Reportedly Breaks Down in Darfur*, March 20, 2003. U.N. Integrated Regional Information Networks.

arrangements in the interim period. The government of Sudan would like to see a unified army, while the SPLA insists in keeping its army during the interim period. The SPLA is unlikely to give up on this issue, and powerful forces in the government of Sudan are vehemently opposed to a two-army arrangement, arguing that this would be tantamount to an independent South. The difficulty in resolving this issue lies in the deep mistrust that exists between the North and the South. A key element of the 1972 Agreement that ended the first phase of the Sudan conflict was the maintenance of a unified army. The SPLA leadership believes now that was a mistake and may have contributed to the intransigence of the North once the South disarmed. Observers agree that the two-decade war has destroyed much of the trust between the two parties and that the interim period should be used to build trust between the parties. Furthermore, the SPLA argues that the July Framework Agreement provides southern Sudanese the right to hold a referendum to decide their association with the North. Creating a unified army now, they contend, could impact the conduct and outcome of the referendum.

Some observers believe that a solution can be found without jeopardizing a final peace agreement. They argue that even if the opposing sides maintained two armies they could still establish joint national institutions, unified military command, a national police force, a national training center, and joint border patrol. But for this scenario to work, they assert, a direct and robust engagement by the United States in the peace process is pivotal. They believe that American engagement is more relevant now in light of the change in leadership in Kenya. The IGAD Special Envoy, General Sumbeiywo, who was close to Kenya's former President Moi and had the strong backing of the government, does not enjoy the same level of access to the new Kenyan leadership. Kenya's new President Mwai Kibaki also is not thought to be as committed to the Sudan peace process as former President Moi, who was personally involved in the peace process for almost a decade.

Some observers have suggested that the United States, with the blessing of IGAD and the parties, host a discussion on security arrangements in Washington. They maintain that the parties are more likely to embrace a session in Washington, believing that direct American engagement could make the United States a guarantor of a peace agreement. Indeed, the Bush Administration's engagement in the peace process has been cited as a major contributing factor to progress in the peace process. The Bush Administration has helped bridge the gap between the United States and its European allies over Sudan policy, paving the way for improved cooperation in the peace process. Other U.S. government agencies are expanding their activities in Sudan, reportedly making a tangible difference for many impoverished Sudanese. The U.S. Agency for International Development (USAID) has significantly increased its development programs in southern Sudan, and U.S. counter-terrorism experts continue their dialogue with their counterparts in Khartoum.

On April 21, 2003, the Bush Administration submitted its report on Sudan, as required by the Sudan Peace Act (PL 107-245). Section 6 (b) (1) (A) of the Act states that "the President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each six months thereafter, that the government of Sudan and the

SPLM are negotiating in good faith and that negotiations should continue.”²⁷ Section 8 of the Act requires the President to report on humanitarian access and aerial bombardment of civilian targets. Section 11 of the Act requires that the President submit a report on possible war crimes. In these reports, the Administration certified that both parties were negotiating in good faith and that negotiations should continue. The Administration based its determinations on four key findings: (1) current negotiations offer the best opportunity for a peaceful resolution of the conflict; (2) the negotiations have made “steady progress” on a wide range of issues, including power and wealth sharing, cease-fire modalities, humanitarian access, self-determination for the South and exemption of southern Sudan from *Sharia* laws; (3) the parties to the conflict are committed to continuing the negotiations; and (4) the mediators and the parties to the conflict believe that a just and lasting solution can be found. The next certification is due in October 2003. If a peace agreement is not reached by October 2003, the Bush Administration could impose sanctions on the government of Sudan, as called for in the Sudan Peace Act.

²⁷The Sudan report can be found at [<http://www.state.gov/p/af/ci/su/c9101.htm>].

Figure 1. Sudan

