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CONTINGENCY PLANNING MEMORANDUM NO. 7

Renewed Conflict in Sudan

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INTRODUCTION

Sudan faces the prospect of renewed violence between north and south over the next twelve to eighteen months. Under the terms of the 2005 Comprehensive Peace Agreement (CPA) that ended Sudan's bloody civil war, which claimed two million lives and displaced four million more, a referendum in southern Sudan must be held by January 2011 to determine whether it remains united with the north or secedes from it. Given that popular sentiment in the south overwhelmingly favors secession, two basic scenarios are conceivable: the south secedes peacefully through a credible referendum process, or the CPA collapses and the south fights for independence. There is no scenario in which the south remains peacefully united with the north beyond 2011. Further complicating prospects for averting renewed violence are the ongoing conflict in Darfur and potential conflicts in other marginalized areas of the north. The violent secession of the south would hinder efforts to resolve these conflicts, as well as increase the prospect for greater internecine fighting among historic rivals in the south. The resulting significant loss of life and widespread political unrest would threaten regional stability and challenge U.S. interests in Africa.

THE CONTINGENCY

The likely triggers of renewed civil war between north and south over the next twelve to eighteen months concern the coming national elections, the referenda on self-determination, border flash-points, and oil.

Elections

The Comprehensive Peace Agreement between the government of Sudan's ruling National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM) held the promise of fostering a democratic, peaceful, and united Sudan. It provided for a six-year interim period, at the end of which southerners were guaranteed the right of self-determination. Two-thirds of the way through the interim period, a general election was to replace national, regional, state, and local officials. According to the Interim National Constitution, these elections should have happened by July 2009; they are currently scheduled for April 2010.

The NCP and SPLM have varied objectives for the elections that will affect their behavior. The NCP is unlikely to tolerate a result that does not extend President Omar Hassan al-Bashir's hold on power; this is not only to ensure regime survival but also to protect Bashir from being handed over to the International Criminal Court (ICC) following his March 2009 indictment for war crimes relating to Darfur. The NCP perceives that winning the election will confer international legitimacy on Bashir, rendering him less vulnerable to ICC prosecution. Even though the SPLM is contesting the presidency of the interim national government, its main concerns are legislative and regional—to protect the south's path to referendum in the national assembly, to assert as much control as possible in the state assemblies of Southern Kordofan and Blue Nile (which bear responsibility for the popular consultation processes), and to assure the election of Salva Kiir as president of the government of southern Sudan. If it calculates that any one of these objectives is unattainable, especially at the legislative level, it may call for a partial or full boycott.

Expectations for a free and fair election are low. Significant allegations of misconduct have been leveled at both major parties, including voter registration fraud and harassment of opposition parties. Potential for conflict among internally displaced persons (IDPs) in Darfur—the vast majority of whom feel that voting would solidify their dispossession and marginalization—and in former SPLM-held areas of Southern Kordofan and Blue Nile as well as in Khartoum is high. Already competition over constituencies exacerbates ethnic and communal rivalries, particularly in the south, frequently resulting in violence. While the regime's hold on Khartoum will not be in jeopardy as long as the Sudanese Armed Forces (SAF) remain loyal to President Bashir, any violence against southerners or opposition parties in Khartoum can be expected to trigger retaliation against northerners in Juba and other major towns in the south.

Confounding prospects for a credible and nonviolent election is the logistical challenge of administering the most complex election in Sudan's history when many, if not most, Sudanese have never participated in an election. As well, important legislative reforms mandated in the CPA have not been enacted by the national assembly, including reform of the national security forces and laws guaranteeing freedom of the press and freedom of assembly.

The Referenda

The clearest tripwire for return to war between north and south is delay of the southern Sudan referendum beyond January 2011, or manipulation or denial of the results by the NCP. In addition to the referendum on independence for the south, the CPA also affords the volatile and oil-rich region of Abyei, historically part of the south but currently part of the north, the choice of following the south's decision or staying in the north through its own referendum. Given Abyei's symbolic significance to southern Sudan, any serious movement by the north or outside actors to postpone or defer either of these referenda could collapse the CPA and would embolden those within the south who agitate for a unilateral declaration of independence. The SPLM leadership would be unable to resist popular pressure for such action, even though it would likely provoke the north to secure the oil fields militarily and to terminate transfers of oil revenues to the south, plunging the two parties back into war.

The NCP's utmost concern is political survival, which assumes continued access to oil revenues and, ideally, would not entail a referendum on southern independence. At a minimum, the NCP will attempt to make the southern referendum as costly as possible for southerners, both to gain maximum leverage in post-referendum negotiations as well as to showcase its resistance to southern secession and division of the country into two. If Khartoum assesses ambivalence or outright support from the international community in delaying the referenda, any inclination within the party to uphold the CPA will crumble and the likelihood of southern agitation in response to northern intransigence will mount.

In two other contested areas in northern Sudan—the states of Southern Kordofan and Blue Nile—the CPA provides each a lesser option for popular consultations at the end of the interim period to review and possibly amend the constitutional, political, and administrative arrangements of these states with the national government; the CPA does not allow for these areas to participate in the south's referendum on independence in spite of their alliance with the south's struggle for self-determination. Dissatisfaction with being denied self-determination combined with mounting disappointment with the popular consultation process due to delays and perceived manipulation will fuel hard-line sentiment to return to war in pursuit of a better solution for the former SPLM-held areas.

Border Flashpoints

The CPA provides for the demarcation of the north-south border before the referendum takes place. At stake are the disposition of some of the most productive oil reserves in Sudan, constituency delimitation for the elections and referenda, and traditional access to land and grazing routes. A joint committee of the parties to resolve contested portions of the border has not finalized its work, nor has physical demarcation been allowed to proceed.

During the interim period, both the SAF and the Sudan People's Liberation Army (SPLA) have rearmed and repositioned themselves along the border particularly around strategic oil fields. Joint Integrated Units of the two forces, as mandated by the CPA, exist in name only and are themselves sources of considerable volatility. As the end of the interim period nears, the chances of either accidental escalation through weak command and control of junior officers or intentional escalation to secure vital oil fields will rise. Numerous potential flashpoints exist; the most prominent of which centers on the region of Abyei. In May 2008, the SAF's 31st brigade attacked the SPLA and burned the town center to the ground. Intense diplomatic pressure and the ruling of the Permanent Court of Arbitration in July 2009 helped to calm simmering tensions, but potential for conflict to flare between the African Ngok Dinka and the Arab Misseriya tribes, and by extension the SPLA and the SAF, remains high. The SAF's 31st brigade remains just north of the town. Further, the Misseriya are blocking the demarcation of Abyei's northern border, per the Permanent Court of Arbitration's ruling, and the UN Mission in Sudan (UNMIS) has yet to gain peacekeeping access to the vital Heglig oil fields that are located in this area.

Oil

Given that most of Sudan's currently active oil fields are on the southern side of the north-south border and that the only pipeline for transporting oil to the coast for export runs north to Port Sudan on the Red Sea, negotiation of acceptable terms for oil revenue sharing post-referendum, particularly in the eventuality of southern independence, will be a significant indicator of the prospects for a smooth referendum process and beyond. A basic deal between north and south will be imperative to secure the NCP's tolerance of the referendum process and respect for its outcome. Uncertainty about the dispensation of oil revenues and pipeline service fees will not only discourage NCP cooperation with a credible referendum process but encourage it to tighten its security around the active fields. This, in turn, will further provoke the SPLM to disrupt the pipeline or attack the oil fields; the NCP likely underestimates this risk, believing its control of the pipeline gives it ultimate leverage in oil revenue negotiations.

CONSEQUENCES FOR U.S. INTERESTS

Renewed civil war in Sudan would present an acute policy challenge to the United States in Africa. Although the United States has no significant strategic or economic interests at stake in Sudan other than the counterterrorism support that it reportedly receives from Khartoum, a major new outbreak of violence, with all its attendant humanitarian consequences, would put considerable pressure on the United States to respond and prevent further bloodshed. The U.S. role as the principal broker of the

CPA, the existence of dedicated advocacy movements on Darfur, and the concern that renewed conflict could spill over and destabilize neighboring countries add to these pressures.

In the worst-case scenario, a renewed north-south conflict could plunge the country into a chaotic and deadly situation of total war if the political opposition and armed movements in the north, south, Darfur, and east organized and coordinated their combat strategies. In the more probable scenario of CPA collapse, the civilian toll is still likely to be high. Both the SAF and the SPLA are large land armies and have acquired advanced weaponry and training for their armed forces during the interim period. Khartoum retains air superiority over the south and can be expected to resume its bombing raids aimed at terrorizing civilians. Small arms remain pervasive throughout the civilian population in the south despite recent disarmament efforts by the GOSS. Violence in southern Sudan is already rising at an alarming rate; in 2009, communal violence in the south surpassed the level of violence in Darfur, displacing some 350,000 people and killing more than 2,500. Finally, retributive violence against minorities in Khartoum, Juba, and other important cities in the north and south with a mix of populations (southerners living in the north and vice versa) can be expected.

Prospects for resolving the conflict in Darfur will dim and likely expire in the event of a renewed north-south war. Neither Khartoum nor the Darfur rebel movements will be motivated to seek a meaningful negotiated settlement. Khartoum's tolerance of the UN-AU Mission in Darfur (UNAMID) and the international humanitarian operation, already under significant stress due to the ICC indictment of President Bashir, may cease and it may conclude that forcibly returning the 2.7 million IDPs to their homes is its best option to end international involvement in Darfur. Humanitarian access would become very difficult, if permitted at all, denying food and other emergency assistance to the more than 4.7 million people currently reliant on international aid. The civilian casualties and humanitarian needs could surpass the grotesque scale of human rights abuses and atrocities that has occurred in Darfur and southern Sudan.

Finally, as the principal proponent and overseer of the CPA, U.S. credibility as a peacemaker in Sudan and Africa will be affected by whether and how the United States supports the south's path to independence. Without the unequivocal support of the United States and the international community for the south's right to self-determination, it will have no incentive to seek this peacefully and avoid renewed conflict. Moreover, the rebel movements in Darfur would conclude that the United States and the international community are not trustworthy guarantors of a settlement with Khartoum, thus eliminating the possibility of a political arrangement that restores stability in Darfur and allows the peaceful return of IDPs to their homes. In the wake of strident advocacy campaigns on Darfur, domestic pressure for greater U.S. action will grow at the same time that U.S. credibility and leverage in Sudan and the region could be compromised.

OPTIONS TO AVERT RENEWED CIVIL WAR

While there is immense risk of a violent breakup of the country, it is by no means inevitable. Washington has at its disposal a variety of policy measures it could take to avert a renewed civil war.

Punitive Actions

A commonly held view is that Khartoum only responds to increased pressure; already many advocates are calling for threats of punitive action and further isolation to help prevent Khartoum from

renege on the southern referendum. This option could include bilateral threats of military action, such as threats to blockade Port Sudan, launch air strikes against strategic targets, or enforce a no-fly zone over the country. Senior Obama administration officials campaigned on promises of military action against Khartoum over Darfur and Congress regularly entertains discussion of such options. The value of making these threats depends on Khartoum's perception of the likelihood of their implementation and the effectiveness of the intended action on achieving its objective. For instance, an effective blockade of Port Sudan would disrupt arms flows and major economic activity for the north, severely challenging the regime's survival, but would need to be balanced with the political and civil unrest likely to ensue in northern Sudan, as well as the spillover effect on the south and the economic harm it would suffer from loss of oil revenue. Alternatively, the United States could once again launch missile strikes against targets in Sudan, such as the SAF's air force. This would eliminate the north's air advantage over the south and Darfur, crippling its military dominance. Another option to preclude bombing raids could be to impose a no-fly zone over parts of Sudan. Given the size and location of the country, however, most military analysts assess it would be difficult for the U.S. government or allied forces to sustain such an operation. Any of these military options would be costly for the United States at a time when military resources and political capital, particularly in the Muslim world, are stretched thin. In light of these factors, Khartoum would conclude that Washington would not follow through on bilateral military threats, and it would rightly assume the UN Security Council would not back such actions multilaterally.

Other multilateral punitive actions, such as the threat of tougher sanctions and/or the imposition of a full arms embargo against Sudan could also be pursued. Support in the UN Security Council is unlikely, however, given the veto power of China and Russia, two of Khartoum's principal arms suppliers and, in the case of China, Sudan's largest trading partner. Even if consensus could be reached in the Security Council, Khartoum's largest arms supplier is Iran, for whom UN-imposed embargoes are meaningless; any arms embargo would therefore be partial at best and would likely disproportionately affect the south. In terms of economic sanctions, the United States has nearly exhausted its options bilaterally. Possibly more productive than pushing for UN Security Council-imposed sanctions would be to push Sudan's European trading partners to threaten to adopt tougher commercial sanctions against the north if it reneges on the CPA.

Diplomatic Engagement

The least costly and most effective option for the United States would be to continue to pursue bilateral and multilateral diplomatic action to provide pressure as well as incentives for the parties to honor their commitment to the CPA, which has provided peace—however temporary—between north and south for the first time in twenty-two years and now needs to be consolidated through a credible referendum process. Washington maintains leverage over Khartoum because of the range of economic and political measures it has already imposed, vitiating Khartoum's international legitimacy.

Bilaterally, the United States can best support the parties by helping to ensure an environment that motivates them to keep the peace. Washington can do this by focusing them on the critical outstanding issues, by generating ideas to break logjams if asked, and by articulating the minimum red-lines for an internationally acceptable transition to post-referendum status. Ahead of the elections, the most critical issues are the contested census results that provide the basis for proportional representation in the national assembly (the south contends it is underrepresented) and constituency deli-

mitation. Pre-referenda, the most critical issues are the demarcation of the 1,300-mile north-south border, oil revenue-sharing arrangements post-separation, and questions of nationality for southerners remaining in the north after independence, and vice versa. Arrangements for the referenda and popular consultations are lagging, requiring critical attention and greater coordination of effort and resources to support the parties. Washington should not attempt to negotiate any of the outstanding issues, but it could deploy well-connected senior diplomats to nurture the transition process, under the auspices of and in addition to the frequent visits of the president's special envoy.

Multilaterally, the United States could reassert itself to lead the plethora of international mediators and special envoys to Sudan in developing a common agenda for focusing the parties on the critical issues prior to elections and referenda. Between the bilateral envoys (the United States, United Kingdom, France, European Union, China, and Russia, among others), the United Nations, the African Union, the Arab League, and the Intergovernmental Authority on Development, there are too many actors working at cross-purposes, leaving the situation vulnerable to the forum shopping and stalling tactics at which the NCP, in particular, is so adept. Given the recent appointments of new leadership for the UN and AU in Sudan, it could be timely for Washington to reprise the conference it convened in June 2009 to review implementation of the CPA and coordinate international efforts to support it in its final stages.

In particular, the United States should be prepared to lead the international community in maintaining its financial and technical support for the electoral process and its advocacy of free and fair conditions at the same time that it plans for the likelihood of flawed elections. The elections themselves should be rejected if independent validation of the results is not possible. The United States, together with the international community, should have clear and well-articulated benchmarks for what will constitute a credible election and what will not. If substantial portions of the voting population appear to have been disenfranchised, as is likely to be the case with Darfur and possibly elsewhere, then the international community should question the validity of the vote. In the lead-up to the elections, serious concerns should be identified publicly and privately with relevant authorities while caution should be taken not to prejudge the outcome—positively or negatively.

The United States could also focus significant diplomatic effort on UN Security Council action. The United States could lead the Security Council to codify consensus expectations of the international community with respect to the final benchmarks of the CPA and to oversee the readiness of the UN for the most likely contingencies. This option could include promoting a coordinated international effort to prepare for an independent south to match U.S. actions in this regard. For example, the UN Security Council could require a transition plan from UNMIS, assuming an independent south, as soon as possible. The United States could further lead the donor community in mobilizing the resources for a post-referendum peace dividend, which is critical to securing stability in the south and building a capable, accountable government.

Finally, the United States could focus greater diplomatic energy toward countries with influence over Khartoum, such as China and Egypt. While Khartoum will brook international pressure as long as it retains the support of its bilateral allies, China's commercial investments and arms deals give it unparalleled sway over Khartoum, and Egypt's support is vital to Sudan's national security and broader Arab support for the regime. The perspective and tolerance of these two important partners for an independent south are integral to Khartoum's calculations. It is crucial, therefore, to secure Chinese and Egyptian intervention with Khartoum on conducting a fair referendum on southern self-determination. This will require the United States' most senior interlocutors with China and

Egypt to seek consensus on Sudan's future, in addition to the efforts of the president's special envoy that could otherwise be perceived as single-focused and out of context of the United States' broader relationships with these two countries.

OPTIONS TO MITIGATE THE CONSEQUENCES OF RENWEWED CONFLICT

If the CPA collapses and the north and south return to civil war, the United States will be pressed to demonstrate the extent to which it will back southern Sudanese self-determination. An immediate challenge will be whether to recognize southern Sudan if it unilaterally declares independence. U.S. policy should be unambiguous on the prospects for U.S. military and financial support to the SPLM to avoid emboldening the south unduly. At the same time, the NCP must understand the lengths to which the United States will isolate the regime if it reneges on the southern referendum. Multilateral action through the UN Security Council will be necessary, but will not be sufficient. Bilateral and regional leverage on each party will be imperative to regain a ceasefire—let alone broker a new deal—requiring the intervention of the highest levels of the U.S. government to raise Sudan in its strategic dialogues with China, Russia, Egypt, and the Arab League, as well as the African Union and countries bordering Sudan. The United States' ability to lead in this regard will be determined by its response to southern independence and any punitive actions it pursues toward the north.

To respond to the humanitarian consequences of a violent secession, the United States will need to work closely with the United Nations and nongovernmental organization (NGO) partners to access needy populations with food and emergency relief. Conditions for humanitarian relief will be difficult, if not impossible, in many areas. The NCP will likely cut off humanitarian access in the north and Darfur, ruling out international humanitarian relief efforts. In the south, humanitarian actors could revert to cross-border operations via Kenya and Uganda even without Khartoum's assent (as occurred during the civil war); humanitarian flights and convoys, however, would be again vulnerable to possible air attack.

Protection of civilians will be impeded in a hostile environment. Calls for U.S. military intervention can be expected, but as discussed in the previous section, implementing any such punitive bilateral military action would be costly for the United States. The most feasible military option would be long-range missile strikes at strategic targets. Direct military intervention with American boots on the ground would be the most costly, least feasible, and least effective option, even for securing humanitarian access to war-affected civilians. Even if military planners could dedicate forces to such a mission, the nature of the operation would overwhelm the already overstretched resources available. Khartoum would consider all such actions a declaration of war by the United States and would respond accordingly, expelling U.S. government officials and aid partners and ending official American activity, including humanitarian response, in Sudan.

A better alternative for civilian protection than U.S. military intervention could be to focus on UNMIS's capacities. Although UNMIS has a mandate to protect civilians "under imminent threat of physical violence" and "in the areas of deployment of its forces and as it deems within its capabilities," it is neither adequately equipped nor deployed to carry out this mandate. The United States should continue to press in the Security Council for UNMIS to be positioned at hotspots along the north-south border and inside southern Sudan. UNMIS must also be resourced and manned to counter the threats to civilian life already present in the lead up to elections and referenda.

RECOMMENDATIONS

The United States must lead the international community in recognizing that the south will not remain peacefully united with the north after January 2011. International support for self-determination should be unambiguously affirmed without prejudice toward unity, and it must be backed by preparations to recognize and assist an independent southern Sudan. As part of a robust, comprehensive strategy of bilateral engagement with the parties and multilateral engagement with stakeholders, the United States should take the following steps:

- Lead the international community in setting a specific expectation of January 2011 as the date for the southern and Abyei referenda, for instance through a UN Security Council resolution or presidential statement that details realistic penalties for each party if it were to renege on the CPA.
- Lead by example in preparing for an independent south. It should lay the foundation now for upgrading relations with the government of southern Sudan (GOSS) and nominating an ambassador as soon as the outcome of the referendum is validated. It should also be prepared with an even greater assistance package than it has yet provided, particularly to support the GOSS, state, and local level institutions of governance as well as to spur economic growth. Continued assistance to professionalize the SPLA will also be vital, as will even more assistance to build a competent police force and other institutions to maintain the rule of law. In the event of a violent secession, all non-humanitarian assistance for an independent south should be contingent on a finding by the president, notified to Congress, that the south faithfully upheld its commitments under the CPA and that the south was not responsible for initiating the violence.
- Determine to restore full relations with Khartoum pending the peaceful secession of the south and resolution of the conflict in Darfur, and demonstrate this intent prior to the referendum. U.S. interests in Sudan will continue to be affected by Khartoum's calculations, and communicating the United States' long-term interest in fostering a more democratic, accountable government for the people of northern Sudan as well as in ensuring a stable, peaceful neighbor for an independent south will moderate the most hard-line tendencies in the NCP. In the event that Khartoum reneges on its commitments to the CPA, U.S. relations should remain truncated and assistance limited to humanitarian response. Washington should seek further multilateral punitive economic and political measures against Khartoum. In the event that the president determines and notifies to Congress a credible and peaceful election and referenda, as well as a political settlement and final end to hostilities in Darfur, the administration should seek a focused development assistance package for northern Sudan and begin the process of repealing sanctions according to the specific requirements for which the sanctions were imposed.
- Deliver a consistent message on support for southern Sudanese independence and conditions for restoration of relations with the north. Dueling voices within the Obama administration on engagement versus pressure lead Khartoum to assess that neither will prevail and that Sudan policy will continue to fall short of the administration's main focus. Sudan must once again be taken seriously both in terms of budget and in the scale of diplomatic efforts. While the president's special envoy can lead the daily efforts of the U.S. government, intervention is required of other senior officials, including the secretary of state and the president, to bring the full weight of the United States to bear on averting the violent breakup of Sudan.

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- Issuing Council Special Reports to evaluate and respond rapidly to developing conflict situations and formulate timely, concrete policy recommendations that the U.S. government, international community, and local actors can use to limit the potential for deadly violence.
- Engaging the U.S. government and news media in conflict prevention efforts. CPA staff members meet with administration officials and members of Congress to brief on CPA's findings and recommendations; facilitate contacts between U.S. officials and important local and external actors; and raise awareness among journalists of potential flashpoints around the globe.
- Building networks with international organizations and institutions to complement and leverage the Council's established influence in the U.S. policy arena and increase the impact of CPA's recommendations.
- Providing a source of expertise on conflict prevention to include research, case studies, and lessons learned from past conflicts that policymakers and private citizens can use to prevent or mitigate future deadly conflicts.