

Scenarios for the future of Sudan — Economy, governance and conflict management

Paris, 8-9 June 2009

by Damien Helly

Explanatory note

This note provides a summary of advice to the EU expressed at the EUISS on 8-9 June 2009 by a group of 40 experts working on Sudan and looking at post-referendum scenarios.

Advice to the EU

1. Ownership:

Participants concurred on the analysis of risks to be avoided by the EU: the risk of becoming prisoners to deadlines that may threaten peace; the trap of wanting to decide for the Sudanese and thus project a foreign vision of what Sudan should be; the mistake of not recognising the strength of identity politics, defiance and what some called the 'politics of honour'; the risk of minimising the Southerners' right to self-determination; the limitations of listening only to the elites; the danger of a spiral of discourses entrenched in antagonistic ideologies.

2. Mechanisms/approaches:

In this context, participants encouraged the EU to play a role of facilitator by acting jointly with key international players, to engage in various diplomatic initiatives to support North-South dialogue and, if needed, encourage the possible holding of whole-of-Sudan discussions, by supporting high-level shadow advice to parties, track-2 initiatives and mediation on certain clusters where relevant. The EU, together with other international and re-



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Signature of the Comprehensive Peace Agreement, 9 January 2005

gional actors, should contribute to the provision of dialogue frameworks (conferences, workshops, confidence-building meetings) for the parties, with expertise and even training and methodology to help them negotiate the management of their future interdependence, regardless of the outcome of the CPA phase. Some experts even suggested that such initiatives should be designed along similar lines to the Naivasha mechanisms, that is to incorporate dialogue incentives and pressure mechanisms. This could include the creation of EU Trust Funds in certain sectors.

3. Accommodation:

One option to avoid the freezing of dialogue is to reinvigorate opportunities for compromise by committing the NCP - motivated by the strengthening of its power base despite the ICC threat - to short-term measures

and the referendum (i.e. CPA implementation with political accommodation on electoral laws and power sharing at various levels) in exchange for an SPLM acceptance, on technical grounds, of the possible postponement of the referendum deadlines (an option deemed unrealistic by those analysts seeing 2011 as a red line for SPLM). This would allow more space for dialogue about, awareness-raising on, and ac-

ceptance of key issues to be negotiated (oil, borders, economy and finance, water, peace dividends) for the preparation of a stable post-referendum phase.

The option of a transitional government (open also to other states like Darfur or the East) was also considered by some analysts, in cases where elections are postponed and the political and legal vacuum continues.

Workshop Report

This report summarises the debates held at the EUISS on 8-9 June 2009 by a group of 40 experts working on Sudan and looking at post-referendum scenarios.

1. CPA and referendum

While the Comprehensive Peace Agreement (CPA) stipulates that unity should be made attractive, it also provides for a South Sudanese referendum on self-determination. The participants observed that this choice, and especially the possibility of separation, was rarely associated with any clarity as to what 'separation' would actually entail: how could it come about and with what degree of interdependence between the two entities? Could it happen peacefully without leading to further instability and fragmentation of Sudan?

Analysts generally shared the opinion that all the scenarios envisaged (forced or agreed unity, forced or agreed secession) would be accompanied by some (but diverse) kind of tension and violence.

Some experts wanted to view the future of Sudan through a CPA+ lens whereby power would be shared between the centre and peripheries (regardless of numbers). Others were sceptical that a united Sudan could exist anymore and, while still calling for CPA implementation, were already focusing their attention on the viability of a new Southern Sudan.

It was agreed that all paths required dialogue promotion, yet each of them with a slightly different scope of negotiation and with varying motivations behind them.

It was still unclear to what extent the parties (NCP and SPLM leaderships, and other national actors) were prepared to deal with post-referendum issues right now – due to other pressing challenges - but it was regarded as highly important to ensure stability and peace.

Consequently, there was a need to explore ways of helping the parties find appropriate time and space to discuss post-referendum issues so as to make 2011 (whatever the outcome) as 'uneventful' as possible.

Although all factors determining post-referendum scenarios should ideally be addressed right away, other competing issues were obviously of immediate urgency, such as addressing the problem of election engineering. And also longer-term dynamics had to be analysed simultaneously: bottom-up (peace dividends, public services, governance, land issues and environmental issues linked to oil) and top-down (power sharing, wealth and resources sharing, border and security agreements). These are intertwined potential drivers of conflict.

2. Short-term scenarios

Experts and practitioners agreed on the need to avoid immediate political, security and legal vacuums. The complexity of holding of elections in early 2010 was underlined, including the implications for the 2011 referendum, such as further postponements or even cancellation. In this context the continued functioning of power sharing was seen as important to manage post 2011 scenarios.

A forum was being organised in Washington on 23 June 2009 with high-level Sudanese representatives, regional and international officials and NGOs in support of CPA implementation. It was expected that the issue of post-referendum arrangements would be addressed although it remained unclear as to how this would be done.

3. Medium-term scenarios

In the medium term, the difficulties related to CPA implementation had to be monitored (including acceptance of a census and the passing of legislation) as they could create serious tension, in turn triggering conflict.

A postponement of the referendum was considered unlikely and could be a potential cause of re-igniting generalised conflict between the North and the South. Also it was not seen as being in either the SPLM's or the NCP's interest.

Local conflicts in both the South and the North and/or in the Three Areas should be anticipated throughout

the period but would not mean that the perspective of a referendum in 2011 would vanish politically.

For some experts, elections could bring unsatisfactory results for the SPLM (because of the nature of the electoral system) and for the Darfuris (whose registration is complicated due to massive displacement).

Should both parties commit themselves to the CPA implementation, sensitive technical issues on the very organisation of the referendum may emerge: the criteria to define voters, the voting status of Southerners in the North and the administrative management of the vote, all will have to be tackled efficiently.

In a 2011 perspective, the role of the UN - and of UNMIS in particular - would have to be re-assessed. The experts believed that the international community in all its entirety and diversity needed to play a key role at political, security and humanitarian level.

The possibility of considering a post-referendum peacekeeping and peace-building transition period was suggested.

Some experts stated that the issue of divisions in the South and in the North (Darfur, Southern Kordofan) after the referendum would have to be addressed at an early date. Planning efforts were therefore suggested in order to address power sharing for Darfur, for example promoted by the Darfur mediation.

4. Land and natural resources

Land tenure policies would most likely remain a continuing source of local tensions. Complex, multi-factor and multi-level processes have to be addressed at various levels and in a tailored manner.

It was agreed that more work was needed on boundaries and land-tenure management over the next few years. In hot spots, mitigation measures such as monitoring, early warning, conflict resolution and emergency aid would probably be required.

Nile water resources could be an opportunity for regional cooperation but also an object of tension at state level linked to the construction of infrastructures and dams. In case of separation, it was not clear if or

according to which terms South Sudan would participate in the existing Nile water treaties which would – in any event - require in-depth consultation with neighbouring states and Egypt in particular.

5. The oil sector

Even though oil revenues decreased in 2008, they still represented an essential source of resources and revenues (i.e. of power) for both the NCP and the SPLM.

Proven and estimated oil reserves have so far been shown to be rather limited (Sudan in that respect cannot be compared to Nigeria). This could dampen international interest in massive and long-term oil-related investment in the country.

For some experts the financial sustainability of the Government of South Sudan was questionable despite a continued flow of oil revenues.

Since the construction of a new Southern pipeline and refineries will take time and require partnerships with foreign investors, oil revenues and assets-sharing should be discussed by the parties and resolved before the outcome of 2011 is known.

Oil revenues were considered, however, to remain such a question of 'pragmatic necessity' that, even in the case of renewed conflict, industry will probably continue to function, with a militarisation or securitisation of the oil sector.

Several options of wealth sharing could be envisaged (while there was no transparency about current or potential arrangements): the pipeline fee model, the current revenue sharing model, the construction of Southern infrastructure, the redistribution of assets, shared ownership of the existing pipeline, or the renegotiation of percentages allocated to various oil consortia in certain contracts (5A, 5b and B were mentioned).

Given their stakes, their trade partner status or their political-cultural weight, China, Malaysia, India, Japan and Arab states were seen as international actors having strategic leverage on pre-referendum North-South negotiations regarding the oil sector, in

which Norway has also been playing an important mediation role.

Various negotiation and training methods to prepare stakeholders to negotiations and bargaining were presented during the workshop and in some background papers.

While the oil sector had direct international ramifications, it also had direct local implications through its environmental impact and its effects on governance (by financing local, state-level or federal-level governance or through corruption and mismanagement), thereby potentially becoming a driver of conflict and (more rarely) of peace. In this context, the responsibility of oil companies and investors to be more transparent and environmentally friendly and genuinely open to local communities was regarded as crucial.

In addition to the oil sector, it was mentioned that public finance and the sharing of Sudan's significant and growing international debt would also have to be addressed in the 2011 perspective.

6. Policy recommendations

Experts stressed the primary role of politics and the need to break the taboos when it comes to discussing post-referendum scenarios.

Expert discussions on the need to negotiate post-referendum arrangements should be followed by political dialogue, preferably with a public dimension. The parties should clarify the degree of internal and external (from Africa and elsewhere) support they are prepared to accept.

There was, however, consensus among experts on the need for international orchestration to promote dialogue and avoid security deterioration. Thus, it was considered essential to mobilise all actors and bodies already present and active in Sudan.

The EU should be involved, coupled with other global and international actors (*inter alia* P5, Arab League, UN, AU, India, Malaysia, Japan, influential neighbouring and European states).