

# PROSPECTS FOR PEACE IN SUDAN

## BRIEFING

OCTOBER 2002

### Overview

1. The GoS and SPLA returned to the IGAD peace talks at Machakos in the middle of October. This relatively speedy return surprised many who sceptically believed that the logic of war had gained the upper hand. Unsurprisingly, the talks face considerable difficulties with substantive disagreements over a wide range of issues. However, the negotiations are proceeding with a high level of seriousness. They will not meet the 31 December deadline initially set by the mediators. Rather, they will break in mid-November and reconvene for a third major session in January. This makes it essential to extend the Memorandum of Understanding on the cessation of hostilities.
2. The resumption of the negotiations followed intensive military activity in several parts of the country. This included the GoS recapture of Torit and a major SPLA/NDA offensive in eastern Sudan, allegedly backed by Eritrea. Political instability in the north-east African region remains an important wild card in the Sudan peace process.
3. Washington is sending confusing signals about its Sudan policy. While the State Department is clearly committed to the Machakos process, there are powerful forces in Congress pushing for a much harder line on the GoS. The passing of the Sudan Peace Act signifies this, and serves as a reminder of realignments of U.S. policy that may accompany a war on Iraq.

### The Warfront

4. After a major mobilisation, the GoS counter-attacked and recaptured Torit. The level of forces mustered was sufficient to overwhelm the SPLA, which withdrew. This large scale and rapid mobilisation reflects the increase in the GoS warmaking capacity in recent years, with its logistics and mechanised warfare capacity enhanced by oil funds. There was also sporadic intense fighting in various parts of Upper Nile, and a major escalation in Eastern Sudan (see below)
5. A Memorandum of Understanding for the cessation of hostilities was signed on 17 October. The main issue of difference between the parties was whether eastern Sudan should be included in the ceasefire. The SPLA demanded that the ceasefire include all areas. The GoS opposed this on the grounds that the conflict in that region was an Eritrean invasion and not an internal affair. The mediators proposed including the east, on the logic that serious fighting during the peace talks ran the risk of, once again, derailing the negotiations. However, the GoS retained the right to respond to attacks by non-Sudanese parties—i.e. the Eritreans. In the event, the de facto ceasefire initially covered only the South and Southern Blue Nile. The GoS attacked the eastern town of Rasai the same day as the cessation of

hostilities was agreed. But this and subsequent threats of military operations in the east have not so far imperilled Machakos.

6. Following the signing of the MoU on the cessation of hostilities, both parties have accused the other of violations. The most significant of these was the GoS allegation of an SPLA attack on Akobo, described by the GoS as under the control of its ally the SSIM. In reality, the control of Akobo was less clear-cut, and it was reportedly being used as a staging ground for incursions into Ethiopia by the Oromo Liberation Front and Gambella Liberation Front, thereby exposing the populace to the risk of Ethiopian military action. The attack on Akobo appears to have been the work of a coalition of local forces, without provable authorisation from the SPLA command. The GoS has reportedly accepted that the Akobo attack was not a violation of the MoU. Other reported violations have occurred in the vicinity of the oilfields, with the GoS blaming the SPLA for ground attacks and the SPLA accusing the GoS of airborne attacks. These reported violations are unlikely to derail the talks. However, they underline the importance of ensuring that both parties recommit to the spirit and letter of the MoU, especially in Upper Nile.

## **The Return to Machakos**

7. The mediators have been active and effective. The U.S. role has been complicated by the confusing signals coming from Washington D.C., so that other IPF mediators, especially the British envoy, have been required to play a pivotal role in retaining the confidence of the GoS. Both the African Union and Arab League have sent observers to Machakos. The presence of the Arab League is an important signal that Egypt, Libya and other Arab countries recognise the legitimacy of the IGAD process.

8. A number of outstanding issues have emerged or re-emerged. The differences between the parties reflect their assumptions about the meaning of the July Machakos Protocol. Perhaps some of these assumptions could have been clarified in July; however this might have risked losing the momentum of the talks and foregoing the powerful symbolism marked by the Protocol. The issues postponed from July are surfacing now, in what is hopefully a more favourable atmosphere for resolution. The talks will break in the middle of November, and remain suspended during the remainder of Ramadhan and the Kenyan Presidential elections in December, to reconvene in January.

9. The marginalised areas. The mediators proposed that the questions of Abyei, Nuba Mountains and Southern Blue Nile be included in the agenda for discussions between the parties. The GoS and SPLA have agreed to these discussions, most probably when the talks resume in January. The details of this arrangement have yet to be made public. On this issue, the differences between the parties' positions remain great.

10. Wealth-sharing. The mediators have presented papers on this issue. Progress is dependent upon a prior settlement of the key issue of power-sharing and the constitutional architecture of the country. Once the different governmental entities that can receive revenue have been identified, and the funding mechanisms specified, then the hard negotiation on the proportions of revenue accruing to each entity can begin.

11. Power sharing, including the presidency and ministries. The SPLA proposed that President Bashir serve as President for the first three years of the interim period, and John

Garang for the second three years. This was not accepted by the GoS, which instead proposed Garang as Vice President. Discussions have now moved on to a detailed consideration of the powers of the vice-president plus allocation of key positions between the representatives of the parties. Several challenges arise for progress on this question. One is the status of the current Vice President, Ali Osman Mohamed Taha. He would clearly prefer to have the position of second vice president or similar. However, the idea of him having power comparable to that of the SPLA leader would not be acceptable to the SPLA. Another question is the weighting of posts between North and South, dependant on an assessment of what proportion of Sudan's population is from the North and from the South. A third issue is clarification on the respective roles of the Northern and Southern entities and the national/federal/union government.

12. There has been substantial progress on this issue. However, it is likely that the parties will defer final agreement on this issue until other questions have been settled, as it is a key issue and also one on which it is possible for last-minute horse-trading.

13. Location and status of the national capital. This issue is highly revealing of the assumptions made by the parties. For the GoS, it is simply unthinkable that Khartoum is anything other than an integral part of 'North' Sudan as well as the national capital. For the SPLA, on the one hand it takes the logical position that a 'one country two systems' approach demands a national capital that is not part of either the northern or the southern entities, and on the other hand has yet to internalise the essential point that once an agreement is signed, the SPLA itself will become an integral part of the national/federal/union government.

14. Security and the national army. This has yet to be discussed in detail. It is likely that this will be the most demanding round of all the negotiations at Machakos, with the greatest potential to derail the process. Both parties see their military strength as the ultimate guarantee on the successful implementation of any peace agreement, on the terms they understand.

## **Comments on Machakos**

15. The mediators are to be congratulated on their persistence, patience and robust attitude during the interruption and on the resumption of the talks. They have displayed a seriousness that has compelled the parties to reciprocate.

16. The prospects of a very quick movement towards a settlement, in the timetable originally agreed (by the end of December) are not good. The SPLA capture of Torit destroyed the nascent trust that was building between President Bashir and John Garang subsequent to their meeting in Kampala. The continuation of Ghazi Salah el Din as head of the GoS team has indicated that Khartoum recognises that it must negotiate seriously, but it is doing so very cautiously. On the SPLA side, John Garang has also made it clear that he still regards the IGAD negotiations as only one track towards the SPLA's goals among many.

17. The Machakos talks remain primarily proximity talks rather than face-to-face negotiations. The parties are chiefly responding to the proposals made by the mediators, and in turn making their points and arguments to the mediators, rather than facing each other across the table. Important processes of mutual confidence building are therefore at an early stage. The agreements that are being reached will need to be further elaborated and discussed

by the parties, together, to avoid misunderstandings about their content. The dangers of incompatible assumptions about the meanings of the agreements are evident. These dangers are amplified by the parties' history of how they interpret agreements, and the indeterminacies of translation into Arabic.

18. One issue that will need clarification is the status of any agreements made at Machakos with respect to the Sudanese constitution. Will the agreement supersede or override the existing constitution, or will it have to be interpreted in the light of that constitution?

19. The SPLA is negotiating both for the strongest possible Southern Entity, and for a fair share in the National Government. However, its negotiating strategy seems to focus more on the former than the latter. This is an essentially defensive strategy. The GoS goals are chiefly to retain a majority share in power and to achieve international respectability.

## **Eritrea and Eastern Sudan**

20. Early October witnessed a significant offensive by the SPLA/NDA in Eastern Sudan, which captured Hamush Koreb and other adjoining areas. Sudan Alliance Forces commanders including Abdel Aziz Khalid played a prominent role. SAF's status vis-à-vis the SPLA remains ambiguous: it is unclear whether it has been absorbed into the SPLA or remains an independent entity. According to the GoS, Eritrean troops and armour participated, and the Eritrean government played the critical role in the planning of the attack. The attack was condemned by the NDA Chairman Mohamed Osman al Mirghani.

21. The SPLA motivation is likely to have been to divert resources and attention away from the GoS counterattack on Torit, and to have some victories to claim in order that the return to the negotiating table is not seen as a concession made from weakness. In a broader perspective, the attack also reflects John Garang's preference for keeping his options open: he retains the military option alongside the search for a negotiated settlement.

22. In response to the Sudanese allegations of an Eritrean invasion, an African Union fact-finding mission was despatched to both countries. This has yet to report. However, both the Libyan government and the U.S. have reported that no Eritrean troops are currently present on Sudanese soil. There has also been speculation that Eritrea's strategy was to complicate the Machakos process, thereby gaining time and advantage for Egypt and Libya to relaunch their initiative. If so, this did not succeed. One outcome of the sharp deterioration in relations between Sudan and Eritrea has been increased cooperation between Sudan, Ethiopia and Yemen in support of Eritrean opposition forces, based in Sudan and Ethiopia. The leaders of the three countries met in Sana'a for a summit. Several armed groups have come together under the banner of the Eritrean National Alliance, and are present in Sudan and Ethiopia. With the ongoing Eritrean attempts to destabilise Ethiopia using the OLF, this underlines the risks of a regional conflict in the Horn.

## **Khartoum**

23. Following the GoS recapture of Torit, the mood in Khartoum returned to a broad consensus in favour of peace. The GoS appears united in this stand, though divisions still exist on what the government should settle for, and what lines it is not prepared to cross. The parties outside government are divided between those who would like a seat at Machakos,

and those who are waiting for an agreement to be concluded. Most appear to hold that political activities proper will resume when peace is achieved.

24. Student politics has been emerging as the focus for active opposition to the GoS. The Islamists have always been highly sensitive to the political mood among students. When it faced the prospect of losing control of the Khartoum University Student Union to a coalition that included NDA parties and the Popular National Congress (followers of Hassan al Turabi), the GoS decided to suspend the Union. It also detained some of its members.

25. Momentum is building behind European economic engagement including expanded aid programmes and private sector investment. In an important sense, the GoS is already beginning to see the peace dividend. The U.S. Sudan Peace Act is a significant rejoinder to this.

## **The South**

26. The SPLA-SSDF agreement has been underwritten by a further meeting between John Garang and Riek Machar. This confirms the SSDF support for Machakos and is a rebuttal to GoS attempts to divide the Southern groups. However, the GoS policy of 'divide and rule' continues unabated, and Khartoum has indicated that it will continue to regard agreements with Southern factions as valid despite Machakos.

27. A meeting in Entebbe, Uganda, of civil society organisations from both South and North, convened by the churches, adopted a set of important statements in support of the peace process. Of particular significance was their adoption of a Referendum Protocol for the exercise of self-determination in Southern Sudan.

## **The Region**

28. Kenya faces a close-fought electoral contest in December. The Kenyan opposition has proved unexpectedly united and poses a threat to President Moi's designated successor, Uhuru Kenyatta, in the presidential elections. For the Chief of Staff, General Sumbeiywo, this is not a good moment to be overwhelmingly preoccupied with non-Kenyan activities. During the Machakos recess after mid-November he will doubtless be primarily concerned with his main job, running the Kenyan army. Sudan is not an issue in the elections. However, should the opposition candidate, Mwai Kibaki, win the election, or should the outcome be contested, it seems probable that Kenya will have difficulties in providing the focus and energy necessary to maintain the momentum at IGAD. However, it is in the interest of all Kenyan groups to continue to take the lead in the peace negotiations, and to cooperate closely with the international facilitators.

29. In Uganda, the LRA still very much in evidence. It has not only survived the Ugandan army offensives in Ekuatoria but has regrouped and launched counter-attacks into Uganda, increasing in scale and ferocity. The Defence Minister's claim that the LRA would be wiped out before Christmas seems unlikely to be realised. After a report in the newspaper *The Monitor* that the LRA had shot down an army helicopter, the Ugandan government ordered the paper closed (it reopened shortly afterwards). This reflects a high level of government sensitivity over its inability to defeat the LRA.

30. The Ugandan government's basic problem with the LRA is domestic. It has simply failed, during nearly seventeen years in power, to resolve the political issues of northern Uganda. However, the possibility of resumed secret support from the GoS to the LRA, after the former's return to Torit, utilising Southern Sudanese militias as a go-between, cannot be ruled out. One of the casualties of the SPLA's Torit operation was the trust that had been developing between Kampala and Khartoum.

31. Ethiopian policy towards Sudan remains discreet. Ethiopia is strongly supportive of Machakos, which it sees as the best chance for peace in a united Sudan. Relations between Addis Ababa and Khartoum continue to improve, in large part because of their common interest in containing Eritrea and possibly replacing the government in Asmara. Thus far, the close relationship between John Garang and President Afeworki has not led to an estrangement between Addis Ababa and the SPLA, but the SPLA leadership would be well advised not to discount such a possibility. If such an estrangement were to occur, it would happen quietly but decisively.

## **Washington**

32. The Sudan Peace Act has been passed into law and signed by President Bush. This is a much watered down version of the bill passed by Congress. It includes neither capital market sanctions, nor material support for the SPLA. Its sanctions are limited to freezing the assets of 12 Sudanese companies in the U.S., and a requirement that the GoS prove its readiness to negotiate for peace every six months, failing which the U.S. Administration will take much harsher steps. It authorises \$100 million to spend on assistance programmes in SPLA-controlled areas, and requires the State Department to collect information on alleged war crimes. It also provides for \$300 million in support for the peace process (which will need separate Congressional authorisation). The administration regards the Act as non-binding because of its insistence that the executive retains power over foreign policy decisions.

33. The passing of the Sudan Peace Act reflects internal Washington politics, and the continuing power of the anti-Khartoum coalition, rather than any realignment in the Administration's position. However it is a powerful piece of symbolism. It demonstrates the State Department's lack of command over foreign policy.

34. The Sudan Peace Act sends confusing signals to Khartoum, which interprets it as indicating bad faith by the peace negotiators. It has been roundly denounced by the GoS. There is the risk that anti-peace elements in Khartoum may take the Sudan Peace Act out of context and use it to rally support to try to block agreement at Machakos. However, so far it has not imperilled the ongoing negotiations. The Sudan Peace Act also runs the danger of misleading the SPLA leadership, holding out the promise that the U.S. may give unilateral support to the SPLA sometime in the future. Neither party should be allowed to use the Sudan Peace Act as a pretext for negotiating in bad faith.

35. The calculations of both sides may be thrown out by any U.S. attack on Iraq. Neither party appears to be taking this into their calculations, although the SPLA is constantly receiving encouragement from the same political forces in Washington that advocate an attack on Iraq. The onset of any U.S. attack on Iraq may prove the de facto deadline for achieving agreement at Machakos.

## **Conclusion**

36. The slow but steady progress at Machakos still represents the best chance for peace in Sudan. The substantive issues are being progressively resolved. While the parties remain at the negotiating table, the differences between their positions narrow, and the logic of achieving a settlement grows stronger. If the mediators and external facilitators can sustain the pressure and maintain the momentum during the November-January recess, and start the talks on schedule in early January, the chances for a settlement are good.

37. Many factors, internal or external, could still derail the peace process. At this stage it is essential that the Machakos process continues to be well-funded, with sufficient personnel seconded to it by the mediators and the external facilitators. Compared to the costs of an ongoing war, the Machakos peace process is extremely good value.

38. The recess in the talks from mid-November to early January is an opportunity for exploring options and building consensus on a range of key issues, including the Nuba Mountains and Southern Blue Nile, wealth-sharing, and security questions. Sudanese civil society organisations should continue to mobilise in support of Machakos, to maintain pressure on the parties to reach a settlement.

Justice Africa  
6 November 2002