



United States Department of State

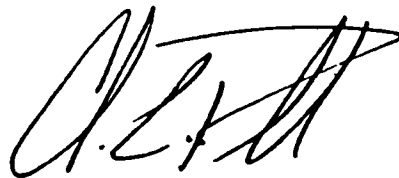
Washington, D.C. 20520

Determination on the Sudan Peace Act

Consistent with section 6(b)(1)(A) of the Sudan Peace Act (Public Law 107-245) and the President's memorandum of delegation of October 21, 2004, I hereby determine and certify that the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and that negotiations should continue.

This determination shall be notified to the Congress and published in the Federal Register.

22 Oct 04
Date


Secretary of State

MEMORANDUM OF JUSTIFICATION REGARDING THE SUDAN PEACE ACT DETERMINATION

Consistent with Section 6(b)(1)(A) of the Sudan Peace Act (Public Law 107-245), as enacted into law on October 21, 2002, and the President's memorandum of delegation of October 21, 2004, the Secretary of State has determined and certified "that the Government of Sudan [GOS] and the Sudan People's Liberation Movement [SPLM] are negotiating in good faith and that negotiations should continue." The Secretary has made this determination and certification on the basis of the following considerations:

(A) The major political issues in the IGAD talks have been resolved.

On May 26, 2004, the GOS and SPLM signed protocols on power-sharing and the three conflict areas (Nuba Mountains, Southern Blue Nile, and Abyei), which had been the focus of difficult negotiations over many months, and this concluded negotiations on the major political issues in the Intergovernmental Authority on Development (IGAD)-mediated peace process. On June 5, 2004, the parties signed the Nairobi Declaration on the Final Phase of Peace in the Sudan, reconfirming their agreement on the six texts that had been negotiated and agreed, including:

- **The Machakos Protocol, July 20, 2002.** Resolved the status of state and religion and the right of self-determination for the people of South Sudan.
- **The Agreement on Security Arrangements during the Interim Period, September 25, 2003.** Provided for establishment of joint integrated units as well as retention of the respective armed forces.
- **The Agreement on Wealth Sharing during the Pre-Interim and Interim Period, January 7, 2004.** Specified mechanisms for the sharing of financial and oil resources.
- **The Protocol on Power Sharing, May 26, 2004.** Provided for the establishment of power sharing arrangements that will open the national political system, including through elections, and promote democracy, human rights, justice, and good governance throughout Sudan.
- **The Protocol on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States, May 26, 2004.** Provided for establishment of autonomous governmental structures within a national federalist system, and a method of popular consultation in these two conflict areas.

- **The Protocol on the Resolution of the Conflict in Abyei Area, May 26, 2004.** Provided for administrative structures and a mechanism for a referendum in the Abyei area.

These successive agreements evidence the tangible progress made since the negotiations began in earnest in 2002 and in particular since the previous determination in April. In the June 5 Nairobi Declaration, the parties also reconfirmed their commitment to engage fully in the final phase of the Sudan Peace Process, and they undertook to finalize negotiations and resolve remaining details in as short a time as possible. The parties jointly appealed to the regional and international community to continue support to the Sudan Peace Process at this final phase.

From June 21 to July 28, the parties met at a technical level under the direction of Kenyan-mediator General Lazaro Sumbeiywo to develop the text of an agreement on permanent ceasefire arrangements. By the end of the talks, the parties completed a substantial ceasefire text, but were at an impasse on four technical issues requiring the engagement of principals to resolve.

(B) The parties are committed to the process and have made substantial progress on permanent ceasefire arrangements.

From October 7-16, Sudanese Vice President Taha and SPLM Chairman Garang continued negotiations in Kenya on permanent ceasefire arrangements. They resolved several ceasefire issues, including the Joint Integrated Units (JIUs) in Eastern Sudan, establishment of JIU service arms, a collaborative approach for the handling of other armed groups, and the role of the United Nations Peace Support Mission. The leaders agreed to allow the technical committees to continue work on the remaining permanent ceasefire issues and to commence work on the final annex to the comprehensive agreement: implementation modalities. In a joint press statement, the parties "recommitted themselves to finalize and conclude the Comprehensive Peace Agreement in recognition that prompt completion of the Peace Process is essential for all the people of Sudan as it will help in resolving all challenges facing the country." Vice President Taha and Chairman Garang also pledged to return after Ramadan to finalize the comprehensive agreement.

We have a senior observer at the talks in Kenya, working closely with General Sumbeiywo and the other international observers to generate ideas and help prod the parties toward solutions. We are working closely with our Troika partners, the United Kingdom and Norway, and the rest of the international

community to increase pressure on the parties to bring the talks to closure. General Sumbeiywo and the parties have recognized the critical role of the international observers in the process and have provided assurances of the necessity for their continued involvement.

(C) The IGAD mediators, the international observers, and the United Nations Security Council are also committed to the peace process.

The United States continues to work closely with the Intergovernmental Authority on Development (IGAD), and the talks' mediator, General Lazaro Sumbeiywo. General Sumbeiywo's perseverance and dedication to the process are commendable. The international observers continue to demonstrate their commitment to the process. In Oslo, Norway in late September, over 30 donor countries and international organizations attended a conference hosted by the Norwegian Minister for International Development, Hilde Johnson, in which post-conflict reconstruction of Sudan and the humanitarian situation in Darfur were discussed at length.

The United States Permanent Representative to the United Nations, and former U.S. Special Envoy for Peace in Sudan, Ambassador John Danforth, has urged the UN Security Council to meet at the site of the peace talks in Kenya in November. The Security Council is considering such a trip as a demonstration of its interest to see the negotiations completed, and the restoration of peace throughout Sudan, including Darfur. As Ambassador Danforth has said, "There has been general agreement that the answer to Darfur is the North-South process, and that the engagement of John Garang and the Government of Sudan are both very important to solve all the problems of Sudan."

Moreover, the United Nations Security Council has recognized the importance of the IGAD negotiations, and the centrality of a North-South agreement to an enduring peace in Sudan in several resolutions:

- **Resolution 1547, adopted June 11, 2004:** Welcomed the June 5 Nairobi Declaration and urged the parties to speedily conclude a comprehensive agreement, "believing that the progress now being made in the Naivasha Process will contribute to improved stability and peace in Sudan." It also declared readiness to consider establishing a UN peace support operation to support the implementation of a Comprehensive Peace Agreement and requested the Secretary-General to submit to the Council

recommendations for the size, structure, and mandate of this operation, as soon as possible after the signing of the peace agreement.

- **Resolution 1556, adopted July 30, 2004:** Reiterated support for the Naivasha agreement.
- **Resolution 1564, adopted September 18, 2004:** Urged the parties to “conclude a comprehensive peace accord expeditiously as a critical step towards the development of a peaceful and prosperous Sudan.”

The Secretary-General has also underscored the importance of the IGAD negotiations. His report of August 30, 2004 stated: “[T]he outcome of the talks in Naivasha could serve as a model for the talks on Darfur and instill more confidence among the rebels in the process. Any effort to make the conclusion of the IGAD process conditional on an end to the crisis in Darfur would be counter-productive, with consequences that could further destabilize the country and the region, and ultimately prolong the crisis in Darfur itself.” His report of September 28, 2004 also recognized that “[t]he IGAD-led peace process is central to comprehensive peace in the Sudan.”

(D) There is a continued expectation in southern Sudan that peace is near.

Despite the humanitarian and human rights crisis in Darfur and violations by the GOS, SPLM, and allied militias of the cessation of hostilities in the Shilluk Kingdom, there is an expectation among the people in Sudan that peace is at hand. The United Nations estimates that nearly 360,000 of Sudan’s internally displaced persons and refugees have returned to their homes in southern Sudan as a result of advancements in the IGAD-led peace process. The efforts of the Civilian Protection Monitoring Team (CPMT), the Joint Military Commission in the Nuba Mountains, and the Verification and Monitoring Team have contributed to the maintenance of an environment in southern Sudan conducive to constructive peace negotiations.

Part of this expectation is the improvement in humanitarian access in southern Sudan. Since October 2002, humanitarian access has dramatically increased. The Government of Sudan no longer restricts humanitarian access to the locations that the UN and NGOs seek to reach. There have been some problems, however. Humanitarian assistance was restricted during this reporting period in the Shilluk Kingdom during reported militia attacks. Tensions have very recently reduced and some relief agencies have been able to distribute food and

emergency relief supplies. As well, some problems remain in Southern Blue Nile (SBN). Since SBN was opened to the UN, the GOS has requested a separate monthly notification and requested cargo planes to transit through Malakal for inspection, which adds a layer of bureaucracy to the delivery of humanitarian assistance. There are remaining concerns throughout southern Sudan about recent troop movements into Government garrison towns, but so far, this has not resulted in increased violence or displacement.

(E) Conclusion of the IGAD peace process will provide a framework for resolution of the political issues in Darfur.

The political solution to the conflict in Darfur is best achieved through the framework of a North-South agreement, and United States engagement in the peace process remains critical for its swift and successful conclusion. The United States is also actively engaged in the African Union-led talks between the Government of Sudan and the Darfur rebels, the Sudan Liberation Movement and the Justice and Equality Movement, scheduled to restart in Abuja, Nigeria on October 21.

The United States remains deeply concerned over the crisis in Darfur and is at the forefront of international efforts to resolve that crisis. Secretary of State Powell stated the conclusion that “genocide has been committed in Darfur and that the Government of Sudan and the [Jingawit] bear responsibility – and genocide may still be occurring.” The United States called upon the UN to initiate a full investigation, and Resolution 1564 of September 18 requested that the Secretary-General rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable. On October 7, the Secretary-General announced the commission’s members and we look forward to the results of its investigation.

The United States is also supporting the efforts of the African Union to monitor the April 8 Ndjamena ceasefire between the GOS and the Darfur rebels to restore security to the area. The United States provided logistics and facilities support in the amount of \$6.8 million for the existing African Union mission in Darfur, and has obligated another \$20.6 million for an expanded AU mission.

The United States continues to lead the world in the provision of humanitarian assistance to the internally displaced persons in Darfur and the Darfur refugees in eastern Chad. Despite continued insecurity, international pressure on the GOS has brought about substantially improved humanitarian access in Darfur since July. The UN Secretary-General's Report of October 4, 2004 noted that "[h]umanitarian agencies significantly increased their presence in September" and that "[t]he increased capacity of agencies on the ground has greatly enhanced the ability of humanitarian organizations to overcome the difficult conditions faced during the rainy season." Over 700 international aid workers and over 5,000 local staff are now on the ground in Darfur. Restrictions on visas and travel permits have been substantially reduced. The rains have now subsided. A new food assistance pipeline through Libya to Chad is now operational and between late October and late November, 3,920 metric tons of U.S. food will be provided for Sudanese refugees in Chad using that route. Despite widespread suffering and significant mortality, conditions could have been far worse had it not been for the intense efforts of the international community.

(F) The IGAD talks must be brought to rapid conclusion.

The people of Sudan have waited for over 20 years to see peace returned to their land. We have made clear to Sudanese Vice President Taha and SPLM Chairman Garang that a final agreement before the end of the year is critical to reducing tensions throughout the country, paving the way for full implementation of the agreement and the establishment of an enduring and comprehensive peace in Sudan. The United States will remain engaged in the process in order to ensure its successful conclusion, and will also work closely with the international community in the implementation of the comprehensive agreement.

THE WHITE HOUSE
WASHINGTON

October 21, 2004

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Delegation of Certain Functions Related to the
Sudan Peace Act

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the determination, certification, and reporting functions conferred upon the President by sections 6(b)(1) and 6(c) of the Sudan Peace Act (Public Law 107-245).

You are authorized and directed to publish this memorandum in the Federal Register.

A handwritten signature in black ink, appearing to read "George W. Bush", is written over a light gray rectangular background.