POLICY BRIEFING 57

Governance of Africa's Resources Programme

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Sudan Splits, Oil Disputes Escalate

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RECOMMENDATIONS

- Peacemaking efforts by the AUHIP are commendable, but require continued backing of the UNSC so that the recent deals on oil, border security and other issues concluded by Sudan and South Sudan are implemented fully and pending issues addressed expeditiously.
- Peacemaking efforts should be broadened to include more players from both countries, civil society organisations in particular, so as to increase the likelihood of implementation of the deals on oil and other issues.
- Considering the vital role of oil, key players engaged in the peacemaking efforts should impress upon the governments of both countries the imperative of managing future oil revenues well, and for the benefit of their people.
- Targeted economic assistance that benefits ordinary people, especially those in oil areas, is necessary to reduce suffering brought about by the stoppage of oil production by the government of South Sudan.

EXECUTIVE SUMMARY

The South Sudanese celebrated the birth of their country on 9 July 2011. Many people hoped this historic development would lead to peace and stability. This was not to be, however, as the ties between Khartoum and Juba soured dramatically, culminating in armed clashes over one of the oil-rich areas along the contested common border. A return to all-out war was averted after the UN Security Council threatened to impose sanctions if both countries did not call a halt to the fighting and complete negotiations on issues outstanding from the 2005 Comprehensive Peace Agreement era within a prescribed period. Among the outstanding issues, differences over oil feature prominently. On 27 September 2012, agreements on oil and other issues were concluded, but their implementation is not certain. Thus, as in the period before Southern Sudan's split from the North, disputes over oil continue to be the main cause of conflict and instability.

INTRODUCTION

After the release of the preliminary results of the referendum on Sunday, 30 January 2011, Lieutenant General Salva Kiir Mayardit, then first vice-president of Sudan and currently President of Southern Sudan, described President Omar al-Bashir as 'Sudan's Peace Hero' for his decision to implement the Comprehensive Peace Agreement (CPA) and conduct the referendum.[2] He added that all outstanding issues, including disputes over the Abyei region, border demarcation, and security arrangements, would be resolved before the independence of South Sudan became official on 9 July. President al-Bashir not only allowed the holding of the referendum, but also joined other leaders in Juba to celebrate independence. A year later, President al-Bashir stayed away from festivities marking the first independence anniversary as the ties between his country and the new neighbor to the south had weakened. The differences between the two countries over the outstanding issues had deepened, reaching rock bottom in April, when their armies fought for control of the oil-rich border area of Heglig (or Panthou as it's known in South Sudan).

As in past years, disputes over oil were the main cause of the conflict between the two countries. In contrast to past years, however, the UN Security Council (UNSC) united to push for an end to the armed conflict and called for the resumption of talks to resolve the outstanding issues, mediated by the African Union High-Level Implementation Panel (AUHIP). The backing of the UNSC enhanced the AUHIP role.[3]

TAKING CONTROL, ENDING WITH NOTHING

After Independence, South Sudan moved to control oil production, most of the benefits of which had gone to the ruling regime in Khartoum. Unsurprisingly, the spokesman of the ruling Sudan People's Liberation Movement (SPLM), was reported to have said, 'This is the time for South Sudan to manage its own resources.'[4] However, the move to manage its oil was fraught with complications as President al-Bashir's regime wanted to continue extracting financial rewards from processing Juba's oil. The pursuit of divergent interests by the two countries led to a stoppage of oil flow from South Sudan in January 2012.

South Sudan assumed control of two-thirds of the approximate 490 000 barrels per day, but processing and export facilities belonged to Sudan. Reaching an agreement on the fees South Sudan would pay for the use of pipelines to transport the oil, and other facilities, became difficult despite several rounds of negotiations facilitated by the AUHIP. Sudan demanded $36 per barrel which South Sudan rejected countering with an offer of less than a dollar.

Raising the stakes, Sudan adopted several unilateral measures: turning away vessels collecting oil, confiscating and exporting oil and diverting oil to its refineries. To justify the measures, Sudan's oil ministry claimed that 'the Juba government had failed to pay transit fees of $727 million covering the period from July until the end of October'.[5] President al-Bashir reportedly said in January 2012 that, 'Khartoum would impose a fee until a deal is reached with Juba over a transit fee'.[6]

South Sudan was furious, and accused Khartoum of stealing $815 million worth of its oil. The council of ministers, chaired by President Salva Kiir, adopted a resolution instructing the minister of petroleum and mining to shut down oil production – production which provided 98% of the country's revenues. The loss of oil from South Sudan also hit hard at Sudan's economy.

The decision to halt oil production was hugely popular in South Sudan as the National Assembly, opposition parties, student groups and others threw their weight behind the government. Ordinary people took to the streets to add their backing. Hence, the decision, though not widely discussed, bolstered public support for a government whose image had been suffering because of failure to meet citizens' expectations for basic services, among other weaknesses. Response to South Sudan's decision outside the country, even among friends such as the US, was a mix of disbelief and frustration. Some viewed it as suicidal. Undeterred, and buoyed by the local support, the government turned its attention to companies working in the oil sector.

CAUGHT IN THE MIDDLE

As the struggle over oil intensified, oil companies operating in South Sudan were caught in the middle. On the one hand, they came under intense pressure from the South Sudanese government, the new owner of most of the oil. On the other hand, they had to continue working with the Sudanese regime which had secured their activities during the years of war. Accused of complicity in atrocities committed, oil company activities were declared legitimate targets by the then rebel SPLA, currently the present army of South Sudan. Given this history oil companies faced difficulty in balancing the interests of Khartoum and Juba.

Petrodar ran into problems with the government of South Sudan. On 20 February 2012, its president, Liu Yingcai was issued with an expulsion order by the minister of petroleum and mining, Stephen Dhieu Dau, who accused him of, among other allegations, 'co-operating with the Sudan government in illegally loading South Sudan's oil onto one of vessels belonging to Sudan'.[7] Petrodar claimed that the 'loading was required, non-negotiable and overseen by the government of

Sudan and their national security'.[8] Clearly, this did not convince the minister, whose action could be seen as a warning to other companies to comply with the government or face tough action.

Interestingly the action against the Chinese oil executive was taken a few weeks after the visit of a high profile Chinese delegation earlier in January 2012. Li Yuanchao, a senior member of the Chinese Communist Party who headed the delegation, had signed several agreements, including oil exploration deals, with the leaders of South Sudan. The minister of petroleum and mining signed transition agreements with six oil companies – namely China National Petroleum Corporation, Petronas, Oil and Natural Gas Corporation, China Petroleum & Chemical Corporation, Tri-Ocean and Nile Pet to 'allow the companies to continue with their operations in the upstream blocks in South Sudan.'[9] In other words, the companies were granted the right to operate in their 'existing contract areas secured by the previous Exploration & Production Sharing Agreements'.[10]

Announcing the contract to the press in January, SPLM Secretary General, Pagan Amum, commented that, 'the government of South Sudan became a sole authority over oil companies'.[11] Asked about the future of the oil sector, he responded,

> SPLM and South Sudan is not turning East or West we are going to all directions of the world. We invited the Americans and we invited the Chinese to invest in our country and when China asked us to come to South Sudan we welcomed it because we cannot wait for those who have not yet come and if they come they are welcome to invest.[12]

The South Sudanese are keen to have their long-time allies, the US oil companies, extract their oil, and both the South Sudan and US governments are facilitating their re-entry after the lifting of the sanctions that were imposed in 1997 by the US government for Sudan's support of terrorism.

Recent reports are that Exxon Mobil Corporation and Kuwait Petroleum Corporation have 'agreed in principle' to take part of a block in Jonglei State held by Total SA.[13] No doubt, the arrival of a major American oil company is not good news for the companies currently operating in South Sudan, especially the Chinese, Malaysian and Indian – whose activities prospered, in part, due to limited competition.

Total SA is already worried by the decision to divide Block B, which is estimated to be 120 000 square kilometres. They stopped operations in the Block in 1985 because of security issues. At that time the SPLA had focused on disrupting oil activities, with the activities of Chevron in Unity State coming under assault a year earlier. The present security situation in the oil producing areas is far from ideal, something that will probably discourage some Western companies.

BORDER CLASHES AND MOUNTING PRESSURE

Towards the end of 2011, relations between Sudan and South Sudan took a turn for the worse along the contested common border as militia activities escalated and air raids increased, damaging some oil facilities. President al-Bashir repeatedly claimed that South Sudan was assisting rebels in Southern Kordofan fighting to bring down the Sudanese regime. In November, President Salva Kiir refuted the allegations and stated that, 'President Omar should respect me because I am no longer his vice president or subordinate, but I am a man on my own'.[14]

In April 2012, the SPLA drove the Sudan Army out of Heglig, and occupied it for some days, inviting condemnation and demand for withdrawal from the US, the UN, and the African Union. The area, which South Sudan claimed, supplies around 50 000 barrels of oil per day to Sudan. SPLA spokesperson, Colonel Philip Aguer, said the action was a response to provocations by Sudan, which had wanted to 'invade Unity state and take the oil fields'.[15]

The rhetoric on both sides hardened, with al-Bashir threatening to liberate South Sudan from its present leaders, whom he described as insects. Both sides mobilised for a full scale war. On 2 May 2012, the UNSC adopted Resolution 2024, threatening sanctions if both countries failed to cease fighting, and setting 2 August as the deadline to reach a comprehensive agreement on all outstanding issues. The US Secretary of State made a short visit to South Sudan to push for an agreement at the long running talks in Addis Ababa.

> Secretary of State Hilary Clinton publicly twisted the arm of the country's president to reach a deal to pay greater sums to Sudan for transporting via pipeline the oil South Sudan pumps out of the ground. … The two sides were far apart in negotiations until the day after Clinton appeared in South Sudan, [and] browbeat the South Sudanese president to reach a deal, ….[16]

No wonder then that on 3 August, an accord was reached, requiring South Sudan to pay $9.10 per barrel for the use of the Petrodar pipeline and $11.00 for the Greater Nile Petroleum Operating Company pipeline. This is far below the $36 per barrel that Sudan was demanding, and much more than the less than $1 per barrel South Sudan was insistent on paying. In addition, South Sudan agreed to provide $3.2 billion over three years to Sudan as compensation to cover its loss of oil revenues. The oil deal, an agreement on setting up a demilitarized zone along the 1 800-km border and other deals were signed by the leaders of both countries on 27 September 2012. This will allow the resumption of oil production and hence stabilise the economies of both countries.

CONCLUSION

The peaceful secession of South Sudan in July 2011 raised hopes for peace and stability. Several months later, however, relations between the new countries had soured because of differences over several outstanding issues, particularly oil, border demarcation and Abyei, which were not resolved. Crucially, the two countries did not agree on fees to be paid for South Sudan's use of oil export facilities in Sudan. About 75% of the oil is in South Sudan but the processing and export facilities are in Sudan. Thus, as in the period before the country split, oil remains a major cause of conflicts between the new countries. The question is whether this partial agreement is going to be carried out, considering the poor record of implementation of past deals.

ENDNOTES

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2 *Sudan Vision*, 'Kiir: Al Bashir is Sudan's Peace Hero', *Sudan Vision*, 10, 258, 31 January, p. 1.

3 Ariath, AG (2012) 'SPLM, NCP resume talks in Addis Ababa: Official', *The Citizen* (South Sudan) 17, 13, 17 January 2012, p. 1.

4 *The Citizen,* (South Sudan) 'South Sudan threatens to suspend oil production if North imposes charges unilaterally', 6, 316, 2 December 2011, p. 3.

5 *Reuters,* 'Khartoum loads South's oil on Sudan ship' reproduced by *The Citizen* (South Sudan), 7, 12, 16 January 2012, p. 1.

6 See, Cook T & LN Moro, 'Governing South Sudan: Opinions of South Sudanese on a Government that can Meet Citizen Expectation'. Juba: National Democratic Institute for International Affairs, March 2011.

7 Majur D,'Interview: We need to resettle people', *The New Nation* (South Sudan), 2–5 April, 2012, p. 10.

8 *Ibid.*

9 Ajith M, 'Minister signs Transition Agreement with oil companies', *The Citizen* (South Sudan), 7, 10, 14 January 2012, p. 2.

10 *Ibid.*

11 Ajith M, 'South Sudan to sign contracts with more oil companies', *The Citizen* (South Sudan), 7, 12, 16 January 2012 p. 2.

12 *Ibid.*

13 *New Times* (South Sudan), 'Exxon declines comment as it takes over TOTAL's oil block in Jonglei', 062, 17–23 September 2012.

14 *The Citizen* (South Sudan), 'President Kiir dismisses Sudan's accusations as baseless, malicious', 6, 295, 11 November 2011, pp.1–2.

15 *The Citizen,* 'Push to bring Sudan, South Sudan into crisis talks', 7, 83, 2 April 2012, p. 1.

16 Eland E, 'The impulse to intervene', *Consortium News*, 14 August 2012, http://consortiumnews.com/2012/08/14/the-impulse-to-intervene/?

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