

United States Institute of Peace
Association for Diplomatic Studies and Training
Sudan Experience Project

Interview # 9 – Executive Summary

Interviewer: Marilyn Bruno
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The interviewee presented the perspective of the effect of U.S. sanctions policy on the implementation of the Comprehensive Peace Agreement (CPA) for Sudan. He described the process by which the U.S. Departments of State and Treasury review license applications submitted by U.S. persons wishing to transact business with countries that are listed on the State Sponsors of Terrorism List, such as Sudan.

The interviewee described how sensitive U.S. technologies require special waivers for export to Sudan, particularly those that could be seen as contributing to the military capability of the Government of Sudan or its ability to foment terrorism. Even some UN activities are affected by U.S. sanctions when project proposals include the use of U.S. contractors, technology or goods. Included in those commodities subject to U.S. sanctions are communications and transportation equipment (railroad, airport, maritime), which are vital for the development of the country and for building confidence in the CPA promise.

While there are still sectors in which the U.S. is so dominant that sanctions really do have an impact, the petroleum and other sectors are being supplied by China, Malaysia, and other countries. As a result, the U.S. may be losing visibility and influence. In the opinion of the interviewee, many US companies would be very interested in exporting to or investing in Sudan, but are constrained by the U.S. licensing policy and ability to monitor compliance on the ground. The interviewee cited delays of over one year to process license applications submitted by U.S. non-government organizations (NGOs). The delays are primarily due to shortfalls in staffing within the U.S. Government to fully vet the employees, contractors and funding sources of NGOs.

The same U.S. licensing process is required for U.S. importers of products that generate revenues for the Government of Sudan. The interviewee cited gum Arabic as being of particular importance, since it is a product, which is used, in most processed food and cosmetic products worldwide. If the U.S. Government were to deny licenses to U.S. importers of gum Arabic, they would have to buy it from middlemen at a much higher cost.

When asked about the potential consequences on U.S. sanctions policy of a secession of the South after the referendum in 2011, the interviewee suggested that the issue had not yet been considered.

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Q: It's the sixth of July, 2006, and we're going to be talking about the implementation of the Comprehensive Peace Agreement in Sudan. In hindsight, are you aware of any shortfalls in the CPA that may have led to problems with implementation?

A: Not with the CPA itself. Some of the bureaucratic obstacles, processes involved with sanctions, could perhaps be seen as complicating some of the practical measures and activities needed to implement it.

Q: What is the status of the sanctions against Sudan, and why they were put in place?

A: We have had very comprehensive sanctions on Sudan since 1997. It's one of the few countries on the State Sponsors of Terrorism List, which entails very sweeping measures. Sanctions don't permit exports of US goods to Sudan, except for food and medicine and unless licensed. Any sensitive technologies require special waivers, as do in particular anything that would be seen as contributing to the military capability of the Government of Sudan, or its ability to foment terrorism. It requires a very elaborate waiver, called a 6J Waiver, which requires a thirty-day Congressional notification period. It's not unique to Sudan. Other countries on the State Sponsors of Terrorism List also have the same waiver. But Sudan is the only country that I'm aware of where we've actually granted one, and this was for the SPLM, to give them secure communications equipment, with very elaborate safeguards so that the equipment wouldn't fall into the wrong hands. So this is the kind of area where sanctions do play a role in how the Comprehensive Peace Agreement is implemented, and what activities that we're willing to license for Sudan that we'd probably not be willing to do for other countries.

Q: Do we monitor the use of the SPLM of that equipment?

A: Yes, the contractor has to keep careful track of who has the equipment. They're the ones also responsible for training the SPLM officials, and they have the responsibility of informing us if any of the equipment is lost or stolen.

Q: So, now we have all of these sanctions in place for many years. Do you think it's been effective to effect change in Sudan?

A: You can certainly point to countries where sanctions have had a good, positive impact, such as Libya in particular, which is just coming off of the Terrorist List. I think it's probably too soon to tell whether they've had a net beneficial impact on Sudan. But, my personal feeling is that on the whole they probably have. I think it does place constraints on the behavior of the Government of Sudan based in Khartoum.

Q: And so, are there any lessons learned from this policy?

A: You would hope so.

Q: Well, on one hand you have the Comprehensive Peace Agreement where we're encouraging democracy, on the other hand we're saying, "You are a rogue nation and we are sanctioning you."

A: And these officials in Khartoum have tended to be very sensitive about this. My understanding is they've been cooperative on terrorist issues, but they are still on the List because of atrocities in Darfur and other areas of non-cooperation. The sanctions do make it difficult for us to do some of the humanitarian activities that we want to do, but it's possible to go through the OFAC licensing process, and that works reasonably well, but sometimes the delays can be problematic.

Q: Just for the record, what is OFAC?

A: OFAC stands for the Office of Foreign Assets Control. It's a branch of the Treasury Department that oversees and administers the sanctions. The State Department provides policy guidance to OFAC as to whether they should grant particular licenses. Most humanitarian activities we do end up granting licenses, but sometimes delays can be weeks to months.

Q: And how many licenses is the U.S. Government granting lately to Sudan?

A: It varies month to month. In a typical month, we would review in this particular office nine to ten licenses for Sudan. Most are fairly straightforward with everything from archaeological expeditions to, a recent one for a license to survey water well sites in Darfur. That's particularly one where I'm thinking the bureaucracy can be a hindrance because there was a five-month delay. So that's the kind of thing where bureaucracy is not necessarily a great thing.

Q: But Darfur wasn't in existence when the Comprehensive Peace Accord negotiations were underway, and now it is a factor, subject to separate sanctions, isn't that correct?

A: There are some separate UN sanctions that are targeted very specifically on individual leaders, but that's different from the sweeping comprehensive sanctions that we have on Sudan as a Terrorist List nation.

Q: Those leaders were identified?

A: In terms of the officials that the U.S. was willing to submit to the UN designation process, I think factions in the country were viewed as being responsible for some of the worst activities.

Q: In Darfur specifically, are the other Sudanese parties brought in to discussions on sanctions at all, that we have with the Government?

A: Yes, in particular, this is an issue with railroads, which are a currently and particularly difficult sanctions issue. We have consulted with officials in the Government of Southern Sudan as to how they would view our easing of sanctions' license policy for bringing in railroad equipment. And so far they have been fairly equivocal as to whether they would see this as a benefit to them.

Q: I know that, in the past, one of the big targets of the warring sides have been destroying roads and railroads because they were used to move material and soldiers. So there's still a sensitivity there?

A: A great sensitivity, though it looks like we're starting to move forward in a very limited way, considering some of these pending license requests.

Q: Okay, this is not confidential, our discussion here, so. . .

A: Memos I've seen were not marked "secret" or anything like that.

Q: Is there any way we can advance the implementation of the CPA in the future? I mean, do you think sanctions will be lifted if more progress is made on implementation of the CPA?

A: There's always that possibility, and I know that many people have thought about it, but I don't think there's been any specific promise. Much will have to do with timing, nature of events, Congressional reactions. All these will be significant factors.

Q: And we also have the eyes of the world on Sudan. Is that why the UN is also involved on the sanctions side?

A: Yes. And even some UN activities are affected by U.S. sanctions when they want to use U.S. contractors or technology or goods, even though it's going for the UN, some of these also require licenses.

Q: So the UN is also doing its own humanitarian assistance and so forth?

A: Yes, and they also have. I think they also have a monitoring and compliance office for which the U.S. Government has paid for computer equipment, and that computer equipment required a license.

Q: Would implementation be helped if there were greater representation of SPLM in the Government of Khartoum? Is this something you could address? I mean, is that what's holding this back or is it just that development needs time to reach a level where the South can actually function as a country?

A: That I wouldn't be qualified to answer.

Q: One of the officials who we interviewed earlier said that some of the sanctions are preventing the State Department from really reforming the security sector, especially when it comes to Southern Sudan. From what you know, has that been the case, is that true?

A: Some of the highest level of sanctions relate to military equipment. I think there have been some general licenses that permit certain kinds of military equipment for UN forces, things of that nature, I think also for the African Union. But yes, it's definitely a higher bar with greater review.

Q: Right. And for the SPLM/SPLA, those sanctions are getting in the way of reforming their security situation?

A: Potentially. Certainly, even for the secure communications equipment, which they clearly did need, it took several months to get that through. If we're talking about more pure military equipment, that's going to take even longer. It's all doable, but it requires very high-level buy-in by senior officials.

Q: So if there were to be any waivers for military equipment, for example, for the SPLM/SPLA, it would require high-level buy-in?

A: Again, it's all doable, but I think it is something that really does require intensive review. Just because we favor the SPLM today, we may not in the future. So what happens at that point, if you have a lot of special equipment in their hands? So these factors do need to be very carefully weighed. I don't want to give the impression that all bureaucracy is necessarily bad, these things are complicated. How much development do you want? How quickly? Where? What kind of equipment? To who? How are they going to use it? Could they misuse it? What happens if the politics change, leaders change? All these issues go into the mix.

Q: Is there some sort of tit-for-tat going on where the South may get that telecommunications equipment, does the North then say, "We want the same equipment"?

A: No, I have not seen anything like that.

Q: Are they aware?

A: Not that I've heard. It's a small number of devices for very senior officials. The North does not lack in this capability, they're able to buy it from non-U,SS suppliers, so it has not come up that I'm aware of. I think the bigger issues that we've been more open to are commercial licenses for Southern Sudan projects, and not for the North. That will be the area to watch.

Q: That's the developmental side of this picture, which of course, is the future of the country. And as you're describing, putting in transportation and other infrastructure has to reach a certain threshold in order to get entrepreneurs and other investors attracted to the country.

A: Yes. And many US companies would be very interested in investing in Sudan, but again it comes down to what is our policy, and what are the events on the ground?

Q: And what if we don't give licenses? Are other countries rushing in and supplying just about everything at this point?

A: There are still sectors where the U.S. is so dominant that sanctions really do have an impact. But for many areas, with the Chinese in particular, it is certainly evident. The petroleum sector, I think, is one where we're right to be very worried.

Q: Are you familiar with a U.S. company that's having trouble in Sudan? I don't even know if I ought to bring that up.

A: Which oil company? Marathon? I think they've applied for a license that would allow them to get out of the country. I know that area gets fairly sensitive to concessions and who has that, but just from a purely sanctions point of view.

Q: Okay, well, we're looking at a timetable for democratization in Sudan. What was it, 2011 is the referendum.

A: Five years away.

Q: Barely, and I think there's some preliminary activity in 2009. So, in trying to wrap your arms around the implementation, which is our goal, it seems that this is an aspect that is not often mentioned, the sanctions aspect, because presumably the sanctions will be lifted once the referendum is held, or is that unrelated?

A: It's not an all-or-nothing kind of process. There are ways of easing sanctions, even before you change regulations, laws, and what have you. You can change the guidance on licensing policy, so you can apply a looser standard, for example, to what kinds of licenses you approve. You can encourage certain kinds of applicants who may not have been encouraged in the past to apply. It can be done as a continuum.

Q: Interesting field.

A: Hopefully. Ideally, it will be one that goes away. In a perfect world, Sudan would not have sanctions in the future, there would be no need of them. You can see this with some countries, like Libya in particular, Iraq to a lesser extent.

Q: Actually, another thing, if that's alright. If, in 2011, the South decides to separate, if they vote to do that, what would happen then to the sanctions that exist now on the Government in Khartoum? Would there be some kind of sanction policy against the South? Would the sanctions that exist change?

A: Interesting. I don't think that's ever come up.

Q: I understand it's a hypothetical, and it's five years down the road, but it is a possibility.

A: I think the sanctions would still apply. I think you would have to change the actual regulations to recognize that as a separate entity.

Q: Well, you would have to, assuming they're a sovereign state, since they would have to have it's own constitution, name, filing in the UN, and international recognition—

A: But if it were to get that, because the sanctions applied to that territory before, I don't think they would automatically go away by any means. I pretty sure that would be OFAC's point of view. They tend to be very, to be real sticklers, for how one interprets their regulations. It's their role. It would be fascinating. Hopefully, Sudan will be able to work as a whole country, and won't be faced with that. But I think the lawyers would be very entertained. The Sudanese, I don't know. We'll just have to stay tuned for further developments.

Q: Well, part of the purpose of this project is to develop lessons learned, for future conflicts, as well as an understanding of what is working and not working for Sudan. Do you have any thoughts on any lessons learned in Sudan?

A: The treatment of NGOs. It's a real troublesome area for sanctions policy, both in Sudan and other sanctioned countries.

Q: Explain what the NGO issue is, please.

A: There initially have been concerns about vetting for NGOs. There's a separate registration process for NGOs in Sudan that was initially meant to speed up their activities and give them broader scope under the sanctions to do the kinds of activities to rebuild the country, provide assistance, and so on. But best intentions—it's actually the slowest part of the program to process.

Q: Who administers this?

A: OFAC.

Q: OFAC is licensing American NGOs. So foreign NGOs—

A: Yes. They don't come under U.S. sanctions. And this issue comes up in country after country. It certainly seems to me to be an area where we probably want NGOs to be very active in rebuilding civil society, providing economic infrastructure, all kinds of other areas. To single them out as opposed to other kinds of applicants, for special vetting, seems to be unnecessarily cumbersome.

Q: Describe what vetting means.

A: Vetting looks at who are the people doing this NGO, what kind of activities, where are they registered, do they have any links to bad actors, where is their money coming from, where is it going to? Ideally, it can be provided by the FBI, the intelligence community, all required resources.

Q: So when you get the application from an NGO, somebody has to do the due diligence to vet, or check up, on the officers, the funding sources, the subcontractors—

A: Depending on the country and the policies in place. It's often unclear as to who should do it, to what extent, how timely a fashion, whether it's truly necessary.

Q: So when you say there are delays, what are we talking about?

A: Many of these NGOs have been delayed for over a year.

Q: So when we're talking about implementation on one hand, and we're in a big hurry, on the other hand, we can't staff people on the ground to start work, where presumably the funding is there. Are any of these NGOs affiliates or subcontractors of USAID?

A: No, USAID has its particular —has general licenses that cover it. Its contractors are in Sudan. That seems to work fairly well.

Q: And they do their own vetting?

A: Yes. The situation is very different for U.S. Government-funded NGOs. That seems to work really, really well. The non-USG-funded NGOs are a problem.

Q: So to solve the problem and get Sudan up on its feet fast?

A: Well, this can only be one part of that. Obviously, sanctions is a fairly small part, but significant in its own way. I think making sure that both State and OFAC have the resources they need to process these licenses quickly is a very basic thing. Make sure that people in high places pay attention to these sort of very nuts-and-bolts, down-in-the-weeds kind of issues. It's one thing to set the policy, but then you actually have to implement it.

Q: So we were talking staffing. How many people in the State Department are working specifically on Sudan sanctions?

A: Two. One person at the Sudan Desk who also does other things, and one person in the Sanctions office, who also does other things.

Q: And how many people at OFAC are specifically working on Sudan?

A: They don't have any one person who's specifically tasked to Sudan. They don't divide up their responsibilities by country. They really only have one person who focuses to a significant degree on Sudan cases.

Q: So there is a staffing shortfall.

A: Yes, and especially for the Sudan NGO registration, where they have only one person who has sort of been Shanghai'd into it, and he's not trained for it. It's really not his position. If you're going to take these issues seriously, you need to have dedicated personnel who are properly trained for it.

Q: Do we coordinate closely with our allies, our European allies and others who are contributing to the Multi-Donor Trust Fund?

A: I believe the U.S. Government coordinates reasonably closely. I'm aware of a case where the Multi-Donor Trust Fund contractors, bankers involved with it, had to apply for licenses. If you consider that close coordination, I don't know.

Q: Any other parting words, before we conclude our interview?

A: No, Sudan's an interesting place, provides all sorts of interesting topics. Hopefully we're moving in the right direction, so we can be overwhelmed with license applications.

Q: Oh, before we end, please give me your thoughts on the power of sanctions to shape development. For example, deciding the level of transportation from one part of the country to another seems to be of particularly impact, not only in a country's ability to develop, but also in terms of the United States' power, or influence, in that country.

A: It's probably one of the most difficult issues we face on the sanctions side for Sudan. Railroads, some boat transportation, and some aviation cases, we're trying to decide, how much? Where? When? Who will it benefit? Who will it hurt? What are some of the risks? It makes it very, very, very difficult.

Q: And what about petroleum? How is that being moved, for export?

A: I know the Malaysians have been building some marine terminals in particular parts of the country where that's relevant. Others are building the pipelines.

Q: And who is building them?

A: China and Malaysia are the two major ones that I'm aware of. And I think the French also hopes to be a player, but is not yet.

Q: And the U.S. is not in this picture?

A: No, because of the sanctions. The one company that had a presence prior to sanctions is trying to get a license so they can get out of the country. So that is not an area where we have much influence. There's certainly a lot of interest within Sudan, given how good US oil technology is—extraction, assessment, all of those. But that is not an area I see changing anytime soon.

Q: And, of course, a government that is funded primarily by petroleum may not have as much incentive to bring civil society—

A: To invest in people, to share the wealth, no. It would give them the resources to build up the military. So it's a very difficult issue. Anything that provides to the Government of Sudan something under sanctions, we have to look at very carefully. Oil is pretty easy just to deny, but other resources, in particular gum arabic, for which Sudan is famous, among those who care about gum arabic, that one is a perennial challenge.

Q: Could you describe the uses of gum arabic?

A: It is in just about everything, but is particularly useful for soft drinks, diet food, makeup, certain kinds of printing processes for, like, Time Magazine. It is an incredibly useful, naturally-occurring substance.

Q: And where is it produced?

A: The best comes from Sudan.

Q: Really.

A: It's a particular kind of tree that grows in what's called the gum belt, that goes from a particular section, crosses Africa, and the bulk of it, the best lands for it, are in Sudan.

Q: And this gum arabic, is it in the North part of Sudan or the South part of Sudan?

A: Central. The band sort of covers the country.

Q: So both sides—

A: Yes, can potentially benefit from it. Right now, the main area is Kordofan, which is sort of central. The best quality comes from there. There are three U.S. importers who

each year apply for a license, and each year it's a hard fought battle as to whether or not it will get renewed, because the Human Right Bureau is always very skeptical about any revenue that's going to the Government of Sudan. Because they get some in taxes. There's a government company that used to be a government monopoly, now the government only owns, like, 30% of it. That's the main company that controls gum Arabic exports.

Q: And who owns the rest?

A: Private investors, I think.

Q: Do the people of Sudan own any of this?

A: Private companies have sprung up, in part because of U.S. sanctions. .So there you can say it has been a success, because they pay better prices to the farmers. .So it's actually a very useful cash crop for many poor villagers.

Q: So it employs a lot of people?.

A: A lot of people, because there's a lot of processing involved.

Q: Does it generate as much money and jobs and all the other economic benefits that the oil industry does?

A: It doesn't provide as much revenue to the country, but it definitely generates more jobs, and it has other benefits as well, because apparently it's very good at preventing desertification. The UN's agency that works on forestry is in fact trying to encourage this industry in Sudan and other countries in the region where it can grow.

Q: To stop the desertification of the country?

A: Right. It's sort of a neat little, very special to Sudan kind of problem.

Q: It sounds like the U.S. is a huge consumer of this gum arabic.

A: Right. And the thing is, if we don't buy it from Sudan, the French, in particular, will buy it from Sudan, process it, and re-export it to us, because at that point it would be considered a French product. So, again, these are some of the issues that we wrestle with.

Q: Is there any conflict between the North and the South over possession of certain gum arabic lands like there is over oil lands?

A: Not to the same degree. There have been some. I remember a USAID worker came back and was talking about some of her experiences in Sudan, and it sounded like as people are coming back into various regions and fighting over resources. One of the

resources has been, in some areas, over plantations of these acacia trees. So it hasn't emerged as a huge issue, but it is an issue.

Q: As the refugees returned, did they own their own property, or is that in jeopardy?

A: If I remember correctly, the issue had to do with who controls local governments and demarcation of property, and some of those properties involve areas suitable for more intensive cultivation of these acacia trees.

Q: So gum arabic is yet again taking the spotlight.

A: For those who really follow Sudan very, very, very, very closely, yes. For the rest of the world, it's a nice product in that it doesn't spoil it very easily. You can stockpile it very well. The consumers of it around the world -- food industry processors, for example -- try to keep large stockpiles to prevent being held hostage to events in Sudan, in Chad, in other places where you can get some gum arabic.

Q: Any other thoughts on the economy and the future economic development of Sudan?

A: I'm told, but I have not tested this personally, that some of the world's best barley for beer is grown in Sudan, so that's something to look forward to in the future when we have more normal relations with Sudan.

Q: Very good. Thanks very much.