

Understanding Sudan

A Teaching and Learning Resource



Fact Sheet Seven: An Annotated Comprehensive Peace Agreement

The Comprehensive Peace Agreement (CPA), signed between the Southern People's Liberation Movement/Army (SPLM/A) and the Government of Sudan, brought to an end twenty years of brutal civil war. As such, it is a document of central importance to continued peace in the country. Oil dominates the wealth-sharing parts of the CPA. It involved compromises for both parties – the government seemingly accepted that it would lose exclusive military control of the oil fields, and the SPLM/A accepted that the government would have 50% of the oil revenues from fields located in the South. Below are extracts from the CPA – the elements relating to oil. You should read them out aloud as a class. As you do, think about the implications of these clauses: what do they mean for both sides? Do you think they are enforceable?

1.4 The sharing and allocation of wealth emanating from the resources of the Sudan shall ensure that the quality of life, dignity and living conditions of all the citizens are promoted without discrimination on grounds of gender, race, religion, political affiliation, ethnicity, language, or region. The sharing and allocation of this wealth shall be based on the premise that all parts of Sudan are entitled to development.

1.10 That the best known practices in the sustainable utilization and control of natural resources shall be followed.

3.1.5 Persons enjoying rights in land shall be consulted and their views shall duly be taken into account in respect of decisions to develop subterranean natural resources from the area in which they have rights, and shall share in the benefits of that development.

3.1.7 The communities in whose areas development of subterranean natural resources occurs have the right to participate, through their respective states/regions, in the negotiation of contracts for the development of those resources.

3.2 The Parties agree that an independent National Petroleum Commission (NPC) shall be established during the pre-Interim Period and its decisions shall be by consensus.

4.5 Persons whose rights have been violated by oil contracts are entitled to compensation. On the establishment of these violations through due legal process the Parties to the oil contracts shall be liable to compensate the affected persons to the extent of the damage caused.

One of the central provisions of the CPA was for a NPC to be established which would formulate public policies and implement the clauses given above. It was supposed to have equal representation from both parties. However, thus far the NPC has not been effective, and the Minister for Energy and Mining, Awad Al Jaz, has remained largely in control of the oil industry.

Revenue distribution remains a real problem. In the CPA, the Government of Southern Sudan was to be given 50% of all revenue from oil produced in the South, after 2% was given to the state in which the oil is produced, and a certain, still unspecified, amount to go into an Oil Stabilization fund, if revenues go above a certain (again, unspecified) point.

Some of the problems with revenue distribution seem in part a reflection of the CPA document. For instance, the CPA does not specify how the price at which point revenue will be deposited into the Stabilization account will be set (it merely makes reference to “reflecting changing economic circumstances”), nor does it outline what the funds in the account are to be used for.

In addition to these problems with the document, there are problems with transparency in the oil industry as a whole. The production figures given by the government cannot be verified, and the Government of Southern Sudan has real suspicion that the production figures are much higher than the Government claims, and thus it is stealing money from the South. Whether this is true or not is of course important, but it points to a central problem: such suspicions, even if misplaced, cannot be alleviated until there is transparency in the industry. At present, the agreements between the government and the companies on production rights, contracts, refineries, and pipelines are secret. Equally, no one independently verifies the country’s oil production. If we remember the problems caused by peak oil in lesson one, we can think there is good reason for the company’s not to release such data, fearing a collapse in stock prices, but, regardless, the effect on the CPA is terrible.

Can you think of ways to change the system in order to make the enforcement of the revenue distribution clauses of CPA possible?

Oil located in the North does not have to be shared with the South. Precisely where the line between the North and the South is, is now a matter for bitter dispute. For instance, the Heglig field, which, while declining, produces about 35% of Sudan’s oil, is considered to be in the North by the government of Sudan, while the government of South Sudan considers it a part of Abyei. The borders of Abyei are part of an arbitration currently (April 2008), underway in The Hague. At present, the South does not receive any revenue from Heglig.

There is then confusion over the status of existing oil contracts. During the end of the war, the SPLM/A signed contracts with Moldova’s Ascom and Britain’s White Nile group to territory in Blocks 5B and B respectively. However the Northern government had already assigned concessions to Petronas and the French company Total, respectively. In January 2008, after two years of negotiation, Petronas and Ascom arranged a deal whereby Ascom would get a portion of more than 20,000 square kilometers of block 5b, with the White Nile Petroleum Operating Company (led by Petronas) taking the rest of the block. As of April 2009, the White Nile group has withdrawn from Block 5B, after the Khartoum

government and the NPC upheld Total's claim, and Total SA is preparing to start drilling after a twenty year absence.

There are further ambiguities in the CPA which makes its implementation problematic. While the CPA claims that the industry must follow "best known practices in the sustainable utilization and control of natural resources", what precisely these practices are is not specified, nor is how the state might enforce such practices, even if they were specified.

There is then, a great deal of room, given the absence of an explicit framework of enforcement provided by the state, and a dysfunctional NPC, for companies to take up the slack. Whether they have done so is further explored, beyond what we already know, in the profile of the main oil companies in fact sheet nine. One pertinent point at present is that thus far the oil companies have completely ignored the compensation clause (4.5) given above. The companies are especially responsible for this clause as, for instance, at present there are no functioning courts in Upper Nile province, nor lawyers or public prosecutors.

Further Questions

How might one get around all the ambiguities in the CPA? Is there a way to make oil companies stay true to the spirit of the CPA, if they are indeed not currently true to it? What type of enforcement mechanisms would underwrite such policies?

Further Reading

The Comprehensive Peace Agreement. Available at:

<http://www.unmis.org/English/documents/cpa-en.pdf>