

**CASE: 'AVOIDING A SLIDE FROM CRISIS TO CATASTROPHE': SECURITY
COUNCIL ACTION CONCERNING THE DETERIORATING SITUATION IN THE
DARFUR REGION OF SUDAN**

*Case developed by
Veronique Joosten
(University of Antwerp, Belgium)*

Problem

The history of the Sudan has been marked by internal strife. The current civil war lasts already since 1983, with the Darfur region being the scene of intense fighting since 2003. In the three years of fighting in this area, the estimates are that over 400,000 people were killed and that some 2 million civilians had to flee their homes. By the combined efforts of the United Nations and the African Union, the international community is trying to turn the tide. So far, little progress had been made. What is more, a humanitarian catastrophe is looming. Currently, the central issue is the transition from the African Union mission to a United Nations mission in Darfur. This setting forms the core of the negotiation exercise you are about to embark upon.

Historical Background

The Sudan, Africa's biggest country, owes its existence as one unit to colonial history. Its population is divided along several lines: by religion (70 per cent Muslim, 25 per cent animist, 5 per cent Christian), ethnicity (between African and Arab origin Sudanese), tribe and economic activity (between nomadic and sedentary cultures). Since its independence in 1956, the country has been in near constant conflict. Most significant has been the conflict between north and south, with the first civil war lasting from 1956-1972, and the second civil war from 1983-2005.

In 1983, fighting broke out between the central government in Khartoum and the southern Sudan People's Liberation Movement/ Army (SPLM/A). After twelve years of fighting, a peace agreement was reached in January 2005. This *Comprehensive Peace Agreement* established among others the sharing of public positions and oil revenues between the different factions. In response to this positive development, the Security Council established the United Nations Mission in Sudan (UNMIS) by its resolution 1590 in March 2005 to support the implementation of the *Comprehensive Peace Agreement*. A couple of months later, a government of unity was inaugurated. Since then, the implementation of the *Comprehensive Peace Agreement* has continued, albeit with suspicions from the south against the north.

In the meantime, a separate conflict erupted in the province of Darfur. In 2003, the Sudan Liberation Army/Movement (SLM/A) and Justice and Equality Movement (JEM) rebels took up arms against the government. The rebels claimed years of



political, economic and social marginalisation of the region. The government responded to the rebellion by arming Arab 'Janjaweed' militia to clear civilian population bases of African tribes thought to be supporting rebellion. An unstable ceasefire was signed in April 2004 and has been monitored by the African Union Mission to Sudan (AMIS) from August 2004. Humanitarian aid was disrupted due to the security situation. In March 2005, the Security Council strengthened the 2004 sanctions regime for Darfur and it referred the situation in Darfur to the Prosecutor of the International Criminal Court (ICC) for investigation. The Sudanese government refuses to cooperate with the ICC and has established a new specialised tribunal.

Recent Developments in the Sudan, in particular in the Darfur region

On 5 May 2006, the Sudanese government signed the *Darfur Peace Agreement* in Abuja with the Minni Minawi faction of the Sudanese Liberation Movement/Army (SLM/A). Neither the Abdul Wahid al-Nur faction of SLM/A nor the Justice and Equality Movement signed this agreement, which was the result of months of intensive mediation led by the African Union.

Since the signing of the *Darfur Peace Agreement*, the crisis seems to be increasingly worsening. Fighting in Darfur has escalated considerably, primarily between signatories and non-signatories. Under-Secretary-General Jan Egeland warned in late August that the humanitarian situation in Darfur was at its worst since 2004 and that humanitarian access continues to deteriorate. About 1.6 million civilians are cut off from aid and some NGO's have indicated that they may need to pull out of the North of Darfur for security reasons. The AMIS is being steadily constrained by limitations imposed by Khartoum and the rebels. This way, its ability to carry out its mission to protect civilians is being rapidly eroded. On top of this, there are reports Khartoum is building up military forces in Darfur, possibly in preparation for a major offensive. Apparently, the government plans to send troops to 'stabilise' Darfur and implement the *Darfur Peace Agreement*. The Security Council was not able to reach consensus on a presidential statement denouncing this plan. At the same time, Khartoum refrains from consenting with transition to a UN force in Darfur, despite many diplomatic initiatives. It seems very unlikely that the call made by the Secretary-General's Special Representative for the Sudan, Jan Pronk, to all parties to resume peace talks and refrain from violence in the Muslim month of Ramadam, will bring about any change.

Recent Diplomatic Developments

Following the signing of the *the Darfur Peace Agreement*, a mission of the Security Council visited the Sudan and Chad from 4 to 10 June 2006. During its visit, the mission found the Darfur conflict to be 'complex and not easily understood by the international community'. With respect to Darfur, the mission declared that 'the most obvious and pressing challenge is security'. It further observed that 'the United Nations should work in partnership with the Government of the Sudan, and with its agreement, in deploying a United Nations force in Darfur. If the United Nations force is to make a



qualitative difference and protect itself and citizens against attacks by spoilers, it will need to take over a strengthened AMIS mandate, in line with that provided for by the Darfur Peace Agreement.' The mission concluded that *'the United Nations should assume full operating capacity, hopefully, in January 2007'.¹*

On 31 August 2006, the Security Council, by its resolution 1706, expanded the mandate of UNMIS to include its deployment to Darfur to support the early and effective implementation of the *Darfur Peace Agreement*.

The resolution approved a force of more than 17,000 troops for Darfur, but *'invites the consent'* of the Sudanese government for its deployment. Sudanese President Bashir and other officials in Khartoum have consistently stated their opposition to any new UN force in the country. In their view, a lasting solution to the problem in Darfur can only be found through the traditions and customs of the people of the region. The acceptance by the Sudanese government of an AU peacekeeping role must be seen in this perspective.

On 11 September, Secretary General Kofi Annan underscored the importance of Khartoum's acceptance of a new UN peacekeeping force for Darfur, authorised by Security Council resolution 1706. As required by Security Council resolution 1590, in which the Council requested the Secretary-General to keep it regularly informed of the progress in implementing the *Comprehensive Peace Agreement* and the implementation of the mandate of UNMIS, Kofi Annan presented his latest report to the Council. This document gives an assessment of the overall situation in the country since the previous report, dated 23 June 2006. According to the Secretary-General, *'the parties have made progress, albeit on a limited scale, in carrying out their commitments under the Comprehensive Peace Agreement. While they are observing their security commitments reasonably well, the implementation of several other major provision of the Agreement has fallen behind schedule. Disappointingly, the implementation of the provisions of the Agreement appears to be selective. The parties have not been able to resolve some important contentious issues, and little progress has been made in the crucial areas of power- and wealth-sharing.'* Thus, *'implementing the Comprehensive Peace Agreement remains a daunting challenge'.²*

A week later, at the General Assembly's annual debate in New York, Sudanese President Omer al-Bashir criticised the August resolution by rejecting the proposed UN force as an attempt to re-colonize his country. A couple of days later, the African Union extended its mission in Darfur until the end of this year. The Security Council followed two days later. In resolution 1709, it expressed *'grave concern'* over the worsening humanitarian situation in Darfur. Therefore, it extended the mandate of UNMIS, although only until 8 October, but with the intention to renew it further. This two-week rollover had to allow the Security Council to take stock of the current diplomatic initiatives and to study the above-mentioned decision of the African Union's Peace and Security Council, which is expected to reconvene at the level of

¹ See Report of the Security Council mission to the Sudan and Chad, 4-10 June 2006. S/2006/433.

² See Report of the Secretary-General on the Sudan. S/2006/728.



heads of state and government in November. The only result was a similar resolution adopted unanimously by the Security Council.

This resolution 1714 of 6 October 2006 extends the mandate of UNMIS until 30 April 2007, again with the intention to renew it for further periods. Although the United Nations enhanced its support of the African Union mission, the key issue remains unresolved. This key issue for the Security Council is how to devise a clear and coherent strategy for obtaining consent from Sudan to a transition to a United Nations mission. And if the conclusion is reached that consent will not be forthcoming, the key issue will be then what strategy the Security Council will adopt.

A spectrum of possibilities have been articulated by Council members ranging from overt pressure to quiet diplomacy.

Beware of the Dynamics in the Decision-making Arena

The Security Council consists of the five permanent members (with veto powers); the Peoples Republic of China, the Republic of France, Russian Federation, the United Kingdom and the United States of America. Furthermore, the Security Council consists of an additional ten non-permanent members; currently Argentina, the Democratic Republic of the Congo, Denmark, Ghana, Greece, Japan, Peru, Qatar, Slovakia and Tanzania. The distribution of the delegations among the different Flemish universities is as follows:

			
China	Argentina	Japan	Chad
Greece	Denmark	Peru	Sudan
Qatar	DRC	Russian Federation	African Union
	France	Slovakia	UNHCR
	Ghana	Tanzania	
	United Kingdom	United States	

A decisive autumn in New York: can the Security Council turn the tide?

Thus, the Darfur crisis has become a complex problem, which poses a real challenge to the international community in general, and the Security Council in particular. Together with your colleagues, you will have to decide upon the following questions:

How can the Security Council best obtain Sudan's consent for the transition?



What options are available to the Security Council to obtain consent? Are economic and targeted sanctions as well as a no-fly zone under resolution 1591 among the Security Council's options? Could those actions be taken by member states unilaterally? Could stepping up the activities of the International Criminal Court be among the measures? Is there a preference for a package of incentives or for increasing the pressure or a combination of both? In other words, will Sudan be encouraged by carrots or sticks?

What if consent cannot be obtained?

Is there agreement that consent is indispensable? Will the Security Council insist on transition as the only option or are alternative plans among the possibilities? And what are possible alternative plans?

The UN Security Council will convene in an **Emergency Meeting in Brussels, from November 30th till December 3rd**, in an attempt to develop a common answer from the international community to this volatile crisis. A Plenary Session will give each of the member-countries of the UN Security Council an opportunity to influence the course of current international politics. You will act as Ambassador of one of the 15, or of an invited delegation. Some delegations, though not all, will receive individual mandates from their capital, which will serve as rough guidelines for the upcoming negotiations. However, be aware that negotiations constitute a *dynamic process*; it will be up to you to defend the interests of your country/delegation! You and only you will also be answerable for your actions to your own Government upon returning to your capital. Thus, much is at stake... It will therefore prove crucial that you reflect in advance about the strategy you will follow during the deliberations. For this purpose, you will be asked to write a *position paper* in preparation of the Emergency Meeting in Brussels.

It is probable that the UN Security Council will move from a formal setting to an informal setting during its deliberations. This is called '*caucusing*', a setting which can be suggested by one or more of the 15 delegations. It is however for the presidency to decide upon the appropriateness of such a course of action. There are two forms of '*caucusing*'; moderated and unmoderated. Both are informal ways of negotiating. The difference can be stated quite simply; (1°) a '*moderated caucus*' is led by the presidency around the negotiating table, (2°) an '*unmoderated caucus*' can be seen as an interaction between delegations away from the negotiating table.

When you return to a formal setting, be aware that a resolution is adopted if 9 out of 15 votes are in favour and if there is no veto against it. Any amendments will be voted upon before the resolution has become final. In procedural matters, a veto cannot be used. The decision about whether or not a matter is procedural is subject to a veto (so-called '*double veto*'). The chair calls the meeting to order and as it proposed this emergency session of the Council, he/she will speak up first. After this opening address the permanent members will take the floor, followed-up by the non-permanent members. The Secretariat will open a Speakers List. The president chairs the negotiations.

A final piece of advice: be aware that the negotiations can be also be affected by '*new developments on the ground*'. You must thus '*be prepared for anything*'.

