

EXHIBIT 88

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(SBU) DEPARTMENT OF STATE RECOMMENDATION REGARDING
EXTENSION OF TEMPORARY PROTECTED STATUS (TPS)
FOR THE REPUBLIC OF THE SUDAN – 2017

I. Statutory Basis for Designation

Have the conditions under which the foreign state was designated for temporary protected status ceased to exist?

(U) Former Attorney General Janet Reno originally designated Sudan for Temporary Protected Status (TPS) on November 4, 1997, based on ongoing armed conflict and extraordinary and temporary conditions within that country that prevent the safe return of Sudanese nationals. Subsequent Attorneys General and Secretaries of Homeland Security have repeatedly extended and/or re-designated TPS for Sudan; the most recent re-designation was effective May 3, 2013 (78 FR 1872), and the most recent extension was effective May 3, 2016 and expires on November 2, 2017 (81 FR 01387).

(SBU) While the Five Track Engagement Plan (STEP) has achieved progress in several key areas since June 2016, including dampening armed conflict in Sudan between the government and armed opposition groups, the conditions under which Sudan was designated for temporary protected status continue to exist. In particular, both the ongoing armed conflict and the extraordinary and temporary conditions that prompted the most recent re-designation continue. The two sides have yet to agree on a permanent political solution to end the conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). Although active conflict between government forces and armed opposition groups largely subsided by September 2016 in those regions (thanks in part to declarations from each side - in the case of the government as an element of the STEP - to adhere to a cessation of hostilities), and there are no longer reports of the government targeting civilians in aerial bombing campaigns, the overall security situation for civilians in those areas remains dangerous. Civilians face insecurity from attacks by armed groups as Sudan continues working to resolve the root causes of internal armed conflicts; more than one million Internally Displaced persons remain unable to safely return home.

(U) According to the April report of the UN Office for the Coordination of Humanitarian Affairs (OCHA), 4.8 million people in Sudan are in need of humanitarian assistance across Sudan, and 3 million of those are in Darfur. According to the UN, although above-average harvests have moderately improved food security across much of the country, Sudan continues to face pressing humanitarian challenges, including widespread acute malnutrition, food insecurity, population displacement, and protracted conflict. Between January and March, around 3,000 people were displaced from East Darfur to North Darfur due to intercommunal armed conflict. In March, OCHA reported that in government-controlled areas of South and West Kordofan, 4,139 and 2,764 people have been displaced, respectively, so far in 2017. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, a lack of broad and consistent support across the federal and state levels of the Sudanese government, as well as across multiple security sectors, has prohibited actors from fully and consistently providing timely and impartial humanitarian access. Armed groups, particularly in the Two Areas, have also failed to coordinate effectively to ensure unfettered access.

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(U) As a result of continuing armed conflict, hundreds of thousands of Sudanese have fled to neighboring Chad, Ethiopia, South Sudan, and the Central African Republic. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet returned home due to persistent insecurity. The UN Independent Expert on Human Rights in Sudan affirmed in a press statement that improvement in the security situation of the conflict areas is needed to create the conditions necessary for the return of the displaced to their homeland.

(SBU) In addition to insecurity and population displacement resulting from ongoing armed conflict, additional extraordinary and temporary conditions cited in the most recent re-designation of TPS for Sudan continue. In particular, Sudan's human rights record remains extremely poor, with instances of extrajudicial killings, disappearances, arbitrary arrest and detention, forced population movements, rape, slavery, and severely restricted freedom of assembly with violent suppression of protests. Also, food insecurity and the need for humanitarian assistance continue, although the degree to which drought and flooding contribute to food insecurity has declined.

(SBU) In addition to the Five Track plan issues, we are continuing to engage the government of Sudan outside of this framework to improve Sudan's record on human rights, religious freedom, and political openness. Even if there is a decision to revoke certain sanctions through the Five Track process, conditions that merit extension of TPS will continue. One of the overarching goals in our bilateral relationship with Sudan remains achieving sufficient progress in key areas (including internal peace and respect for human and religious rights) that would merit an end to TPS status.

A. Armed conflict

1. *Is the foreign state currently involved in an ongoing, internal armed conflict?*

(U) Yes. Sudan faces ongoing, internal armed conflicts in Darfur and the Two Areas.

(U) **Darfur:** Since 2003, the government and armed opposition groups have engaged in fighting in Darfur. In 2014, the government deployed a new paramilitary force in Darfur known as the Rapid Support Forces (RSF), after which displacement in the region increased dramatically.

(U) Under the STEP, government forces largely maintained a unilateral cessation of hostilities in Darfur and the two areas, not undertaking offensive military actions, from June 2016 through the present. Despite this, isolated skirmishes between government and opposition forces, intertribal armed conflict, and attacks on civilians by armed groups continue to contribute to insecurity throughout Darfur. According to the UN and its partners, during the first eleven months of 2016 an estimated 97,500 persons were reported newly displaced across Darfur. Up to an additional 88,775 persons were also reported displaced, but the UN was unable to verify these figures due to lack of access to the relevant locations. However, approximately 38,150 persons reportedly returned; the World Food Program was able to verify 25,564 of these returns. Since the start of 2017, over 7,600 individuals were displaced in North Darfur due to intertribal armed conflict.

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The International Organization on Migration (IOM) also reported some displacements in 2017 that UNAMID and IOM have not been able to verify yet.

(U) Between late April and early May, over 30 people were killed in skirmishes and exchanges of gunfire between two tribes in South Darfur; the fighting was sparked by cattle raids. Clashes beginning May 19 between Arab tribes resulted in as many as one hundred deaths in Central Darfur in the heaviest fighting reported this year. Reportedly, government forces simultaneously clashed with gangs in East Darfur. Violence erupted again in East Darfur in July, with at least 35 people killed.

Fierce fighting also erupted on May 20 in North and East Darfur between government forces and elements of an armed opposition group, the Sudan Liberation Movement (SLM), which entered Darfur from Libya and South Sudan. The government pursued the opposition forces following initial fighting leading to reported attacks against civilians by armed militias.

(U) The Two Areas (South Kordofan and Blue Nile states): The government and the Sudan People's Liberation Movement-North (SPLM-N) began fighting in 2011 for control over towns, military strongholds, and supply routes in the Two Areas. The UN and its partners reported that in 2016, 3,026 individuals were newly displaced in Western Kordofan and the Two Areas, although the number was difficult to verify due to lack of access to those areas. Other reports placed the number of displaced at 12,468. In 2017, IOM reported new displacements in West Kordofan, but has not yet received permission to conduct an assessment or registration. However, OCHA reported in March that in government-controlled areas of South and West Kordofan, 4,139 and 2,764 people have been displaced, respectively, so far in 2017.

(U) The government and armed opposition groups in the Two Areas both have declared unilateral cessations of hostilities since late 2015. Despite this, Sudanese forces and the SPLM-N have continued to trade accusations that the other party breached these cessation of hostilities announcements. The SPLM-N has also accused the government of utilizing militia as their proxy in attacks against their forces or against civilians. According to press reports, in February the government accused the SPLM-N of carrying out an attack that resulted in the deaths of cattle herders in Southern Kordofan. A few weeks later, skirmishes ensued as each side accused the other of offensive action near an SPLM-N area close to a civilian population center. Similarly, media reported that in April, over 50 tribesmen were killed in two days of clashes between tribes in North and West Kordofan.

(U) However, there are no longer reports of the government targeting civilians in aerial bombing campaigns. The government has been accused in the past of targeting civilians through aerial bombardment in the Jebel Marra region; however, there have been no such credible reports since late 2016, largely as a result of STEP engagement with the government to maintain a cessation of hostilities.

(U) As of April, more than 630,000 Sudanese refugees were being hosted in the Central African Republic, Chad, Egypt, Ethiopia, Kenya, and South Sudan. At the same time, Sudan is host to more than 550,000 refugees, mostly from South Sudan and Eritrea; this number is expected to grow as the situation in South Sudan deteriorates.

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2. *If so, would the return of nationals of the foreign state to that state (or to part of the state) pose a serious threat to their personal safety?*

(SBU) Yes. As noted above, several areas of the country are affected by armed conflict, and many people have fled to avoid these threats to their safety.

B. Environmental Disaster

1. *Has the foreign state in question recently experienced an earthquake, flood, drought, epidemic, or other environmental disaster in the state?*

(U) Yes. According to UN OCHA, heavy rains and flash flooding that began in June 2016 resulted in 114 deaths; approximately 14,700 houses were destroyed and another 10,800 were damaged nationwide. In total, flooding affected more than 204,000 people. In 2016, there were two waves of cholera (which the government refers to as "acute watery diarrhea") in various northern states, including Blue Nile state. In late September 2016, the Sudanese Health Minister confirmed the deaths of 71 people and the infection of 3,771 people in Kassala, El Gederaf, Sennar, El Gezira, Blue Nile, and River Nile states.

- a. *If so, did this result in a substantial, but temporary, disruption of living conditions in the area affected?*

(U) Yes. The 2016 floods resulted in a substantial but temporary disruption of the living conditions in the areas affected.

2. *Is the foreign state unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state?*

(SBU) No. While the 2016 flooding resulted in a substantial but temporary disruption of living conditions in the area affected, the government is able to handle adequately the return of its nationals to Sudan in relation to the environmental disaster.

3. *Has the foreign state officially requested TPS for its nationals in the United States?*

(SBU) No.

C. Extraordinary and Temporary Conditions

1. *Has the foreign state experienced extraordinary and temporary conditions that prevent aliens who are nationals of the state from returning to the state in safety?*

(SBU) Yes. There continues to be a substantial, but temporary, disruption of living conditions in Sudan due to continued armed conflict, particularly in areas outside of the capital including

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Darfur and the Two Areas; this conflict has resulted in insecurity and population displacement. The additional extraordinary and temporary conditions cited in the most recent re-designation of TPS for Sudan also continue, preventing Sudanese nationals from returning in safety. In particular, Sudan's human right record continues to be extremely poor and food insecurity along with the need for humanitarian assistance continues -- but with drought and flooding no longer as significant a contributing factor.

(SBU) Pre-dating and apart from the STEP, the United States has pressed Sudan to improve its human rights record. Despite this, Sudan's overall human rights and religious freedom record remains extremely poor. In 2016, the government continued to violently suppress protests. In late 2016, hundreds of persons were detained without charges, including several prominent human rights activists and the leadership of registered political parties. Most of these arrests were part of a general crackdown that followed calls for civil disobedience over government austerity measures. Despite the Attorney General's March decision to release him on bail, one prominent human rights activist remains in government custody, along with nine associates, after being charged with espionage, undermining the constitution, and warring against the state, charges that could incur the death penalty. Meanwhile, three others -- a human rights activist and two lawyers -- face being detained again after the government issued arrest warrants for them. One fled Sudan after being released on bail and is not expected to return. Agents also arrested and allegedly beat a number of journalists; most arrests were part of a general crackdown that followed calls for civil disobedience over government austerity measures including the lifting of fuel subsidies.

(U) The government also continued targeting and abusing members of certain populations, including those who engaged in public protests, activists, youth, journalists, and those belonging to or perceived as belonging to political opposition groups. Reports of human rights violations and abuses in Sudan are not uncommon, including reports of extrajudicial and other unlawful killings. In November 2016, a Sudanese national returning from Israel died in the custody of the National Intelligence and Security Service (NISS). While the NISS claims he died trying to escape interrogation, the circumstances of his death remain unclear.

(U) In May, Sudanese officials demolished two Sudanese Church of Christ churches, reportedly without any warning. The churches were the first on a list of 27 that authorities earmarked for demolition in February, but media report the plans were shelved after a court appeal was made.

(SBU) Other reported violations and abuses that raised significant human rights concerns included torture and cruel, inhuman, or degrading treatment or punishment; arbitrary and unlawful arrest and detention by security forces; harsh and life-threatening prison conditions; prolonged incommunicado detention, which may facilitate the perpetration of torture or other cruel, inhuman, or degrading treatment or punishment; unreasonably prolonged pretrial detention; undue restrictions on the enjoyment of freedoms of expression, peaceful assembly, association, religion or belief, and movement; harassment of internally displaced persons (IDPs); and intimidation and closure of human rights and non-governmental organizations.

(SBU) Drought and flooding no longer render Sudan, on these grounds alone, incapable of handling adequately the return of its nationals, as detailed under section I.B, above.

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Nevertheless, as noted above, around 4.8 million people in Sudan are in need of humanitarian assistance across Sudan, and 3 million of those are in Darfur, an overall decrease from 2016. The UN further reports that approximately 230,000 IDPs are in need of humanitarian assistance in the Two Areas, while armed actors report that an additional 545,000 IDPs reside in parts of the Two Areas under their control. The Famine Early Warning Systems Network reports that above-average harvests have moderately improved food security across much of Sudan. However, populations in conflict-affected areas of Jebel Marra and South Kordofan continue to experience acute levels of food insecurity. Also, despite some improvement in access for humanitarian actors to provide much needed humanitarian aid, a lack of broad and consistent support across the federal and state levels of the Sudanese government, as well as across multiple security sectors, has prohibited actors from fully and consistently providing timely and impartial humanitarian access. Armed groups, particularly in the Two Areas, have also failed to coordinate effectively to ensure unfettered access.

2. Would permitting nationals of the foreign state to remain temporarily in the United States be contrary to the national interest of the United States?

(SBU) Granting Sudanese nationals the ability to remain temporarily in the United States would not be contrary to U.S. national interest.

II. Discretionary Factors

What, if any, additional information relevant to this decision should be brought to the attention of the Department of Homeland Security?

(U) N/A

III. Recommendation

(SBU) That the Secretary of Homeland Security extend the TPS designation for Sudan for a period of six months on the basis of both ongoing armed conflict and extraordinary and temporary conditions.

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