

# EXHIBIT

# 1

**From:** McCament, James W [REDACTED]  
**Sent:** Friday, September 1, 2017 8:15 PM  
**To:** Hamilton, Gene [REDACTED]; Neumann, Elizabeth  
[REDACTED]  
**Cc:** Nuebel Kovarik, Kathy [REDACTED]; Higgins, Jennifer B  
[REDACTED]  
**Subject:** RE: Sudan  
**Attach:** USCIS Final Sudan TPS Decision Memo.doc

---

All,

Attached is the revised Sudan decision memo with changes incorporated from review of the DOS recommendation letter. The attached decision memo reflects the 6 month extension for Sudan TPS. This can be revised, of course, pursuant to the Secretary's final decision. Standing by. Kathy, thanks to your team (Brandon and Kathryn) for staying here to help me work through the rewrite.

Please let me know if there are further questions or adjustments needed?

Thanks all,

James

**James W. McCament**  
Director (Acting) | Deputy Director  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
[REDACTED]



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**Subject:** FW: Sudan

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**From:** Hefright, Brook E  
**Sent:** Friday, September 01, 2017 5:34:30 PM  
**To:** Anderson, Kathryn E  
**Cc:** Prelogar, Brandon B; Yutacom, Jessica W  
**Subject:** RE: Sudan

Yes, the recommendation for Sudan is a sixth-month extension. Draft letter is attached FYI.

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**Subject:** RE: TPS Review Schedule

Many thanks.

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Brook, here's the chart that was transmitted. You'll see a few of the target dates for receipt of State's packages have been pushed back from the last we sent you.

**Kathryn Anderson**  
Deputy Chief, International and Humanitarian Affairs Division  
Office of Policy and Strategy, U.S. Citizenship and Immigration Services  
Department of Homeland Security  
[REDACTED]  
[REDACTED]





U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Office of the Director* (MS 2000)  
Washington, DC 20529-2000

**U.S. Citizenship  
and Immigration  
Services**

## DECISION

### MEMORANDUM FOR THE SECRETARY

FROM: James W. McCament  
Acting Director

SUBJECT: **Sudan's Designation for Temporary Protected Status**

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the conditions in Sudan and is presenting options for your consideration. As part of the review process, USCIS has consulted with the Department of State (DOS). DOS assesses that the statutory conditions supporting Sudan's TPS designation continue to be met. Accordingly, Deputy Secretary Sullivan recommends a 6-month extension of Sudan's designation for TPS.

**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); see also Attachment A: Temporary Protected Status Legal Authority.

<sup>2</sup> See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997). See also INA § 244(b)(1)(A), (C).

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

Sudan's Designation for Temporary Protected Status  
Page 2

designation has been continuously extended on these same grounds since the initial designation in 1997. Sudan has also been redesignated for TPS three times—in 1999, 2004, and 2013—modifying the eligibility requirements and permitting additional individuals to register for TPS.<sup>3</sup> To be eligible for TPS under Sudan's designation, along with meeting the other eligibility requirements, Sudanese nationals must have continuously resided in the United States since January 9, 2013, and have been continuously physically present in the United States since May 3, 2013.

Demographic Information on Sudanese TPS Beneficiaries

There are currently 1,039 Sudanese TPS beneficiaries,<sup>4</sup> 31 percent female and 69 percent male. They range in age at the time of approval from 3-79 years of age, with most in their 20s, 30s, or 40s. Fifty-three were 18 years of age or younger at the time of approval. Sudanese TPS beneficiaries live in nearly every state across the country, with New York, Texas, and Virginia hosting the largest populations with one hundred or more Sudanese TPS beneficiaries each. The most commonly self-reported immigration statuses at the time of initial TPS application included visitors (113), students (178), and “unknowns” (460). Five reported their status as entering without inspection.<sup>5</sup>

Country Conditions

USCIS and DOS have each conducted a thorough review of conditions in Sudan. The country condition reports, upon which this recommendation is based, can be found in Attachments B and C. In summary, the ongoing armed conflict and extraordinary and temporary conditions that supported Sudan's designation for TPS persist.

Since the last extension, armed conflict between government forces and opposition groups in certain parts of Sudan has continued, resulting in an ongoing lack of security and safety for civilians in those conflict-affected regions. 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 freedoms of religion and assembly with violent suppression of protests. In 2016, the government of

<sup>3</sup> See Extension and Redesignation of Sudan under the Temporary Protected Status Program, 64 FR 61128 (Nov. 9, 1999); Extension and Redesignation of Temporary Protected Status for Sudan, 69 FR 60168 (Oct. 7, 2004); Extension and Redesignation of Sudan for Temporary Protected Status, 78 FR 1872 (Jan. 9, 2013).

<sup>4</sup> The total number of beneficiaries represents all individuals who have been granted TPS since Sudan's designation in 1997 and have not had their TPS withdrawn. Not all of these individuals continue to re-register because they have adjusted to another valid immigration status, have left the United States, are no longer eligible for TPS, or have failed to re-register for other reasons. As a result, the number of beneficiaries that USCIS expects to re-register for TPS is lower than the total number of beneficiaries. Based on statistics from the last re-registration period, USCIS estimates that approximately 370 re-registration applications will be filed if Sudan's designation for TPS is extended.

<sup>5</sup> The TPS statute does not require individuals to have lawful status in order to qualify for TPS. The TPS application form does request the applicant's status at the time of application, and this information is recorded in USCIS systems. However, the information is self-reported and not all applicants provide this information on the form in a standard or recordable fashion.

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

Sudan's Designation for Temporary Protected Status  
Page 3

Sudan undertook an aerial bombardment campaign that resulted in civilian casualties and leveled numerous villages. In May 2017, Sudanese officials demolished two Sudanese Church of Christ churches, which were the first on a list of 27 that authorities had earmarked for demolition in February.

While ongoing armed conflict does not persist throughout the entire country, there is conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). As a result, hundreds of thousands of Sudanese have fled to neighboring countries. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet been able to return to those areas of the country due to persistent insecurity. Over 100,000 Sudanese have been newly displaced since 2016.

The number of people currently in need of humanitarian assistance in Sudan is 4,800,000 (over 10 percent of the total population of 39.58 million as of 2016). Above-average harvests have moderately improved food security across much of Sudan. However, populations in conflict-affected areas continue to experience acute levels of food insecurity, with nearly 2,773,000 children suffering from acute or severe acute malnutrition. In addition to food insecurity, access to clean drinking water remains a challenge in Sudan, and, in August 2016, a cholera outbreak began that is currently affecting several states. At least 15,000 to 23,000 people have been infected, with an estimated 280 to 820 deaths. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, they remain unable to fully and consistently provide timely and impartial humanitarian access.

Women and children have been particularly affected by the conflict. Particularly in Darfur, sexual and gender-based violence remains a grave concern, and there are many documented incidents of children being killed and maimed. Children also face recruitment by both the government and armed groups.

Sudan has faced significant economic instability since the secession of South Sudan in 2011, characterized by much reduced economic growth and high inflation (estimated at 16.5 percent in July 2016). The labor market is underdeveloped, and much of the labor force is employed in the informal sector.

### Options

Your options include the following actions:

- 1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, the TPS designation will be extended for an

## **INTERNAL PRE-DECISIONAL RECOMMENDATION**



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additional period of 6 months, or in your discretion, 12 or 18 months. The review of conditions in Sudan indicates that it remains unsafe for individuals to return to Sudan and that the statutory requirements to designate a country for TPS under *Immigration and Nationality Act* § 244(b)(1)(A) (ongoing armed conflict) and under § 244(b)(1)(C) (extraordinary and temporary conditions) continue to be met. DOS also assesses that the statutory bases for Sudan's TPS designation continue to be met. Accordingly, Deputy Secretary Sullivan recommends a 6-month extension of Sudan's designation for TPS.

From an operational perspective, extension periods of less than 18 months for large numbers of aliens are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Here, the number of individuals is relatively small. That said, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation. Accordingly, a 12-month extension would generally be needed to provide sufficient time to restart and complete this deliberative review process. A 12-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through November 2, 2018. A 6-month extension of Sudan's designation for TPS would, however, permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through May 2, 2018.

2) *Redesignate Sudan for TPS*

If you determine the conditions for a designation extension have been met, you may also, in your discretion, redesignate Sudan for TPS. Historically, the act of redesignation of a country for TPS is used sparingly, usually in association with a significant deterioration of conditions since the most recent designation.

The act of redesignation would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013. The USCIS review of the country conditions indicates no new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

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beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. The effective date could be delayed to a time period subsequent to the date of the decision in order to provide for an orderly transition period (e.g., 6, 12, or 18 months), following which the TPS documentation will expire.

Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. *See* INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Recommendation:** USCIS recommends a 6-month extension of the existing designation with no redesignation. This recommendation is made with the following factors in mind:

1. Deputy Secretary Sullivan recommends a 6-month extension to allow for a timely review should conditions change given ongoing efforts by the United States to improve relations with, and conditions in, Sudan.
2. USCIS is supportive the DOS recommendation for the 6-month extension.
3. USCIS assesses the conditions related to the most recent designation continue to be met.
4. Specifically, there is ongoing armed conflict limited to certain parts of Sudan and extraordinary and temporary conditions continue to exist preventing nationals from returning in safety.

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<sup>6</sup> *See* INA § 244(b)(3)(A).

<sup>7</sup> *See* INA § 244(b)(3)(A), (C).

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

## Sudan's Designation for Temporary Protected Status

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5. With respect to establishing a 6-month extension, versus a 12-month or 18-month extension, USCIS notes there were unilateral ceasefires in October 2016 which led to a reduction in violence and rhetoric from the conflict parties.
6. Access for humanitarian actors to provide humanitarian assistance has improved.
7. According to the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3% as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4% in 2017 and 3.6% in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.

**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: *Extend Sudan's designation for TPS for (circle one):*

**6 months****12 months****18 months**

Approve/date\_\_\_\_\_

2. Extend and Redesignate: *Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):*

**6 months****12 months****18 months**

Approve/date\_\_\_\_\_

3. Terminate: *Terminate Sudan's designation for TPS with an orderly transition period of (circle one):*

**6 months****12 months****18 months****Other**\_\_\_\_\_

Approve/date\_\_\_\_\_

INTERNAL PRE-DECISIONAL RECOMMENDATION



Sudan's Designation for Temporary Protected Status

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**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan

Attachment C: Department of State Recommendation Regarding Extension of Temporary  
Protected Status for Sudan

Attachment D: Demographic Data

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

**From:** McCament, James W [REDACTED]  
**Sent:** Friday, September 1, 2017 10:08 PM  
**To:** Hamilton, Gene [REDACTED]; Neumann, Elizabeth [REDACTED]; Wolf, Chad [REDACTED]; Maher, Joseph [REDACTED]  
**Cc:** Nuebel Kovarik, Kathy [REDACTED]; Higgins, Jennifer B [REDACTED]  
**Subject:** RE: Sudan  
**Attach:** USCIS Final Sudan TPS Decision 6 Month Extension Memo.doc; USCIS Final Sudan TPS Decision Termination w Delayed Effective Memo.doc

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All, following on discussion with Gene, attached is the revised memo to clearly support the AS1 decision to terminate with a delayed effective date of 12 months. For reference, I've also re-attached the renamed 6 month extension memo. Please let us know if you need further adjustments or information.

Thank you,

**James W. McCament**  
Director (Acting) | Deputy Director  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
[REDACTED]



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U.S. Citizenship and Immigration Services  
*Office of the Director* (MS 2000)  
Washington, DC 20529-2000

**U.S. Citizenship  
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## DECISION

### MEMORANDUM FOR THE SECRETARY

FROM: James W. McCament  
Acting Director

SUBJECT: **Sudan's Designation for Temporary Protected Status**

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

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**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's

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**INTERNAL PRE-DECISIONAL RECOMMENDATION**



## Sudan's Designation for Temporary Protected Status

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Options

Your options include the following actions:

- 1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, the TPS designation will be extended for an

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

## Sudan's Designation for Temporary Protected Status

Page 4

additional period of 6 months, or in your discretion, 12 or 18 months. The review of conditions in Sudan indicates that it remains unsafe for individuals to return to Sudan and that the statutory requirements to designate a country for TPS under *Immigration and Nationality Act* § 244(b)(1)(A) (ongoing armed conflict) and under § 244(b)(1)(C) (extraordinary and temporary conditions) continue to be met. DOS also assesses that the statutory bases for Sudan's TPS designation continue to be met. Accordingly, Deputy Secretary Sullivan recommends a 6-month extension of Sudan's designation for TPS.

From an operational perspective, extension periods of less than 18 months for large numbers of aliens are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Here, the number of individuals is relatively small. That said, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation. Accordingly, a 12-month extension would generally be needed to provide sufficient time to restart and complete this deliberative review process. A 12-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through November 2, 2018. A 6-month extension of Sudan's designation for TPS would, however, permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through May 2, 2018.

## 2) *Redesignate Sudan for TPS*

If you determine the conditions for a designation extension have been met, you may also, in your discretion, redesignate Sudan for TPS. Historically, the act of redesignation of a country for TPS is used sparingly, usually in association with a significant deterioration of conditions since the most recent designation.

The act of redesignation would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013. The USCIS review of the country conditions indicates no new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

## 3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former

**INTERNAL PRE-DECISIONAL RECOMMENDATION**



## Sudan's Designation for Temporary Protected Status

Page 5

beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. The effective date could be delayed to a time period subsequent to the date of the decision in order to provide for an orderly transition period (e.g., 6, 12, or 18 months), following which the TPS documentation will expire.

Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. See INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Recommendation:** USCIS recommends a 6-month extension of the existing designation with no redesignation. This recommendation is made with the following factors in mind:

1. Deputy Secretary Sullivan recommends a 6-month extension to allow for a timely review should conditions change given ongoing efforts by the United States to improve relations with, and conditions in, Sudan.
2. USCIS is supportive of the DOS recommendation for the 6-month extension.
3. USCIS assesses the conditions related to the most recent designation continue to be met.
4. Specifically, there is ongoing armed conflict limited to certain parts of Sudan and extraordinary and temporary conditions continue to exist preventing nationals from returning in safety.

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<sup>6</sup> See INA § 244(b)(3)(A).

<sup>7</sup> See INA § 244(b)(3)(A), (C).

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

## Sudan's Designation for Temporary Protected Status

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5. With respect to establishing a 6-month extension, versus a 12-month or 18-month extension, USCIS notes there were unilateral ceasefires in October 2016 which led to a reduction in violence and rhetoric from the conflict parties.
6. Access for humanitarian actors to provide humanitarian assistance has improved.
7. According to the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3% as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4% in 2017 and 3.6% in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.

**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: *Extend Sudan's designation for TPS for (circle one):*

**6 months****12 months****18 months**

Approve/date\_\_\_\_\_

2. Extend and Redesignate: *Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):*

**6 months****12 months****18 months**

Approve/date\_\_\_\_\_

3. Terminate: *Terminate Sudan's designation for TPS with an orderly transition period of (circle one):*

**6 months****12 months****18 months****Other**\_\_\_\_\_

Approve/date\_\_\_\_\_

INTERNAL PRE-DECISIONAL RECOMMENDATION

Sudan's Designation for Temporary Protected Status

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**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan

Attachment C: Department of State Recommendation Regarding Extension of Temporary  
Protected Status for Sudan

Attachment D: Demographic Data

**INTERNAL PRE-DECISIONAL RECOMMENDATION**





U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Office of the Director* (MS 2000)  
Washington, DC 20529-2000

**U.S. Citizenship  
and Immigration  
Services**

## **DECISION**

### **MEMORANDUM FOR THE SECRETARY**

**FROM:** James W. McCament  
Acting Director

**SUBJECT:** Sudan's Designation for Temporary Protected Status

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the current conditions in Sudan and is presenting options for your consideration. As part of the review process, USCIS has consulted with the Department of State (DOS). In its recommendation DOS notes the achievement of progress in certain areas under the statutory basis for designation. DOS also assesses sufficient ongoing factors such that the statutory conditions supporting Sudan's TPS designation continue to be met. Deputy Secretary Sullivan therefore recommends a 6-month extension of Sudan's designation for TPS.

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); see also Attachment A: Temporary Protected Status Legal Authority.

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Sudan's Designation for Temporary Protected Status  
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**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's designation has been continuously extended on these same grounds since the initial designation in 1997. Sudan has also been redesignated for TPS three times—in 1999, 2004, and 2013—modifying the eligibility requirements and permitting additional individuals to register for TPS.<sup>3</sup> To be eligible for TPS under Sudan's designation, along with meeting the other eligibility requirements, Sudanese nationals must have continuously resided in the United States since January 9, 2013, and have been continuously physically present in the United States since May 3, 2013.

*Demographic Information on Sudanese TPS Beneficiaries*

There are currently 1,039 Sudanese TPS beneficiaries,<sup>4</sup> 31 percent female and 69 percent male. They range in age at the time of approval from 3-79 years of age, with most in their 20s, 30s, or 40s. Fifty-three were 18 years of age or younger at the time of approval. Sudanese TPS beneficiaries live in nearly every state across the country, with New York, Texas, and Virginia hosting the largest populations with one hundred or more Sudanese TPS beneficiaries each. The most commonly self-reported immigration statuses at the time of initial TPS application included visitors (113), students (178), and "unknowns" (460). Five reported their status as entering without inspection.<sup>5</sup>

*Country Conditions*

USCIS and DOS have each conducted a thorough review of conditions in Sudan. The country condition reports, upon which this recommendation is based, can be found in Attachments B and C. The conditions reflect emerging progress and improvement in certain areas while noted challenges remain.

Since the last extension, armed conflict between government forces and opposition groups in certain parts of Sudan has continued, while the Five Track Engagement Plan (5STEP) has

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<sup>2</sup> See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997). See also INA § 244(b)(1)(A), (C).

<sup>3</sup> See Extension and Redesignation of Sudan under the Temporary Protected Status Program, 64 FR 61128 (Nov. 9, 1999); Extension and Redesignation of Temporary Protected Status for Sudan, 69 FR 60168 (Oct. 7, 2004); Extension and Redesignation of Sudan for Temporary Protected Status, 78 FR 1872 (Jan. 9, 2013).

<sup>4</sup> The total number of beneficiaries represents all individuals who have been granted TPS since Sudan's designation in 1997 and have not had their TPS withdrawn. Not all of these individuals continue to re-register because they have adjusted to another valid immigration status, have left the United States, are no longer eligible for TPS, or have failed to re-register for other reasons. As a result, the number of beneficiaries that USCIS expects to re-register for TPS is lower than the total number of beneficiaries. Based on statistics from the last re-registration period, USCIS estimates that approximately 370 re-registration applications will be filed if Sudan's designation for TPS is extended.

<sup>5</sup> The TPS statute does not require individuals to have lawful status in order to qualify for TPS. The TPS application form does request the applicant's status at the time of application, and this information is recorded in USCIS systems. However, the information is self-reported and not all applicants provide this information on the form in a standard or recordable fashion.

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

Sudan's Designation for Temporary Protected Status  
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achieved progress in several key areas since June 2016. These areas of progress include dampening armed conflict in Sudan between the government and armed opposition groups. In addition, government forces have not undertaken offensive military actions in Darfur from June 2016 to the present. Furthermore, the government and armed opposition groups in the Two Areas both have declared unilateral cessations of hostilities since late 2015.

DOS further notes that while there is an ongoing lack of security and safety for civilians in those conflict-affected regions, there are no longer reports of the government targeting civilians in aerial bombing campaigns. In 2016, the government of Sudan undertook an aerial bombardment campaign that resulted in civilian casualties and leveled numerous villages. However, there have been no such credible reports since late 2016, largely as the result of the 5STEP engagement with the government to maintain a cessation of hostilities.

While ongoing armed conflict does not persist throughout the entire country, there is conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). As a result, more than 630,000 Sudanese have fled to neighboring countries. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet been able to return to those areas of the country due to persistent insecurity. Over 100,000 Sudanese have been newly displaced since 2016.

That said, although there was some additional displacement from Darfur in 2016, approximately 38,150 persons have reportedly returned. In addition, 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.

The number of people currently in need of humanitarian assistance in Sudan is 4,800,000 (over 10 percent of the total population of 39.58 million as of 2016). Above-average harvests have moderately improved food security across much of Sudan. Populations in conflict-affected areas continue to experience acute levels of food insecurity, with nearly 2,773,000 children suffering from acute or severe acute malnutrition.

In addition, access to clean drinking water remains a challenge in Sudan, and, in August 2016, a cholera outbreak began that is currently affecting several states. At least 15,000 to 23,000 people have been infected, with an estimated 280 to 820 deaths. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, they remain unable to fully and consistently provide timely and impartial humanitarian access.

Heavy rains and flash flooding that began in 2016 also resulted in over 100 deaths and thousands of homes destroyed. However, while the 2016 flooding resulted in a substantial but temporary disruption of living conditions in the area affected, the DOS analysis

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

Sudan's Designation for Temporary Protected Status  
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indicates that the drought and flooding that occurred in 2016 no longer prevent Sudan from adequately supporting the return of its nationals. And that the government is able to handle adequately the return of its nationals to Sudan in relation to this environmental disaster.

With respect to its populations, the United States has pressed Sudan to improve its human rights records. Pre-dating and apart from the Five Track plan, the United States has pressed Sudan to improve its human rights record. Despite this, Sudan's overall human rights and religious freedom records remain extremely poor. The government continues to violently suppress protests and abuse members of certain populations, including activists, youth, journalists, and those belonging to, or perceived as belonging to, political opposition groups. Women and children have been particularly affected by the conflict. Particularly in Darfur, sexual and gender-based violence remains a grave concern, and there are many documented incidents of children being killed and maimed. Children also face recruitment by both the government and armed groups. Other reported violations and abuses have raised significant human rights concerns.

We note that Sudan has faced significant economic instability since the secession of South Sudan in 2011, characterized by much reduced economic growth and high inflation (estimated at 16.5 percent in July 2016). The labor market continues to be underdeveloped, and much of the labor force is employed in the informal sector. However, recent analyses indicate that the unemployment rate has decreased and GDP growth rate is up. In addition, according to the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3% as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4% in 2017 and 3.6% in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.

### Options

Your options include the following actions:

1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, the TPS designation will be extended for an additional period of 6 months, or in your discretion, 12 or 18 months. DOS assesses that the statutory bases for Sudan's TPS designation continue to be met. Accordingly, Deputy Secretary Sullivan recommends a 6-month extension of Sudan's designation for TPS.

From an operational perspective, extension periods of less than 18 months for large numbers of aliens are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment

## **INTERNAL PRE-DECISIONAL RECOMMENDATION**



authorization documents. Here, the number of individuals is relatively small. That said, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation. Accordingly, a 12-month extension would generally be needed to provide sufficient time to restart and complete this deliberative review process. A 12-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through November 2, 2018.

2) *Redesignate Sudan for TPS*

If you determine the conditions for a designation extension have been met, you may also, in your discretion, redesignate Sudan for TPS. Historically, the act of redesignation of a country for TPS is used sparingly, usually in association with a significant deterioration of conditions since the most recent designation.

The act of redesignation would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013. The USCIS review of the country conditions indicates no new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. The effective date could be delayed to a time period subsequent to the date of the decision in order to provide for an orderly transition period (e.g., 6, 12, or 18 months), following which the TPS documentation will expire.

Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. *See* INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

announcing the termination is published or, if later, the expiration of the most recent previous extension.

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Recommendation:** USCIS recommends termination, but to delay the effective date of the termination by 12 months to provide for an orderly transition for those recipients to return to Sudan. This recommendation is supported by the following factors:

1. There were unilateral ceasefires in October 2016 which led to a reduction in violence and rhetoric from the conflict parties.
2. There is ongoing conflict in some regions, but not the entire country.
  - a. As any ongoing armed conflict is limited to certain parts of Sudan, extraordinary and temporary conditions preventing the return of their nationals no longer exist.
  - b. As any ongoing armed conflict is limited to certain parts of Sudan, requiring Sudanese nationals to return to their country does not currently pose a serious threat to their personal safety.
3. Access for humanitarian actors to provide humanitarian assistance has improved.
4. Unemployment rate has decreased; GDP growth rate is up.  
[https://theodora.com/wfbcurrent/sudan/sudan\\_economy.html](https://theodora.com/wfbcurrent/sudan/sudan_economy.html)
5. According to the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3% as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4% in 2017 and 3.6% in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.
6. Deputy Secretary Sullivan recommends a short 6-month extension, and notes that the 5TEP has achieved progress in several key areas since June 2016, including dampening armed conflict in Sudan between the government and armed opposition groups. Government forces have not undertaken offensive military actions in Darfur from June 2016 to the present. Furthermore, the government and armed opposition groups in the Two Areas both have declared unilateral cessations of hostilities since late 2015. DOS further notes that:

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<sup>6</sup> See INA § 244(b)(3)(A).

<sup>7</sup> See INA § 244(b)(3)(A), (C).



## Sudan's Designation for Temporary Protected Status

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- There are no longer reports of the government targeting civilians in aerial bombing campaigns.
- Although there was some additional displacement from Darfur in 2016, approximately 38,150 persons have reportedly returned.
- 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.
- Above average harvests have moderately improved food security across much of the country. Additionally, the degree to which drought and flooding contribute to food insecurity has declined.

**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: Extend Sudan's designation for TPS for (circle one):

**6 months****12 months****18 months**

Approve/date \_\_\_\_\_

2. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):

**6 months****12 months****18 months**

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

**6 months****12 months****18 months****Other** \_\_\_\_\_

Approve/date \_\_\_\_\_

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Sudan's Designation for Temporary Protected Status

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**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan

Attachment C: Department of State Recommendation Regarding Extension of Temporary Protected Status for Sudan

Attachment D: Demographic Data

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

*Attorney-Client Privileged Communication*

MEMORANDUM FOR THE ACTING SECRETARY

AUG 31 2017

THROUGH:

Claire Grady [REDACTED]  
Performing the duties of DEPUTY SECRETARY

FROM:

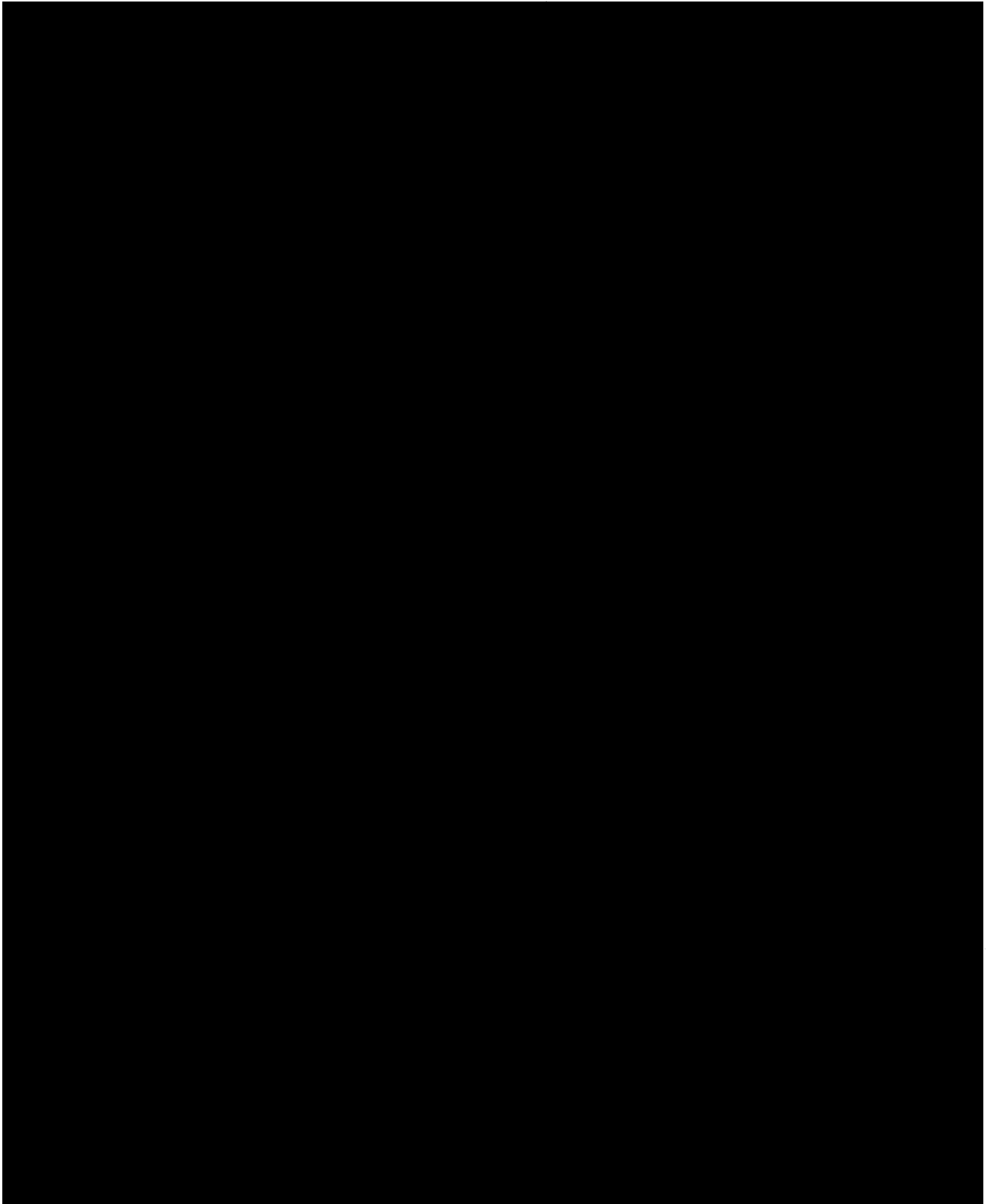
Joseph B. Maher [REDACTED]  
ACTING GENERAL COUNSEL

Christina E. McDonald [REDACTED]  
ASSOCIATE GENERAL COUNSEL FOR  
REGULATORY AFFAIRS

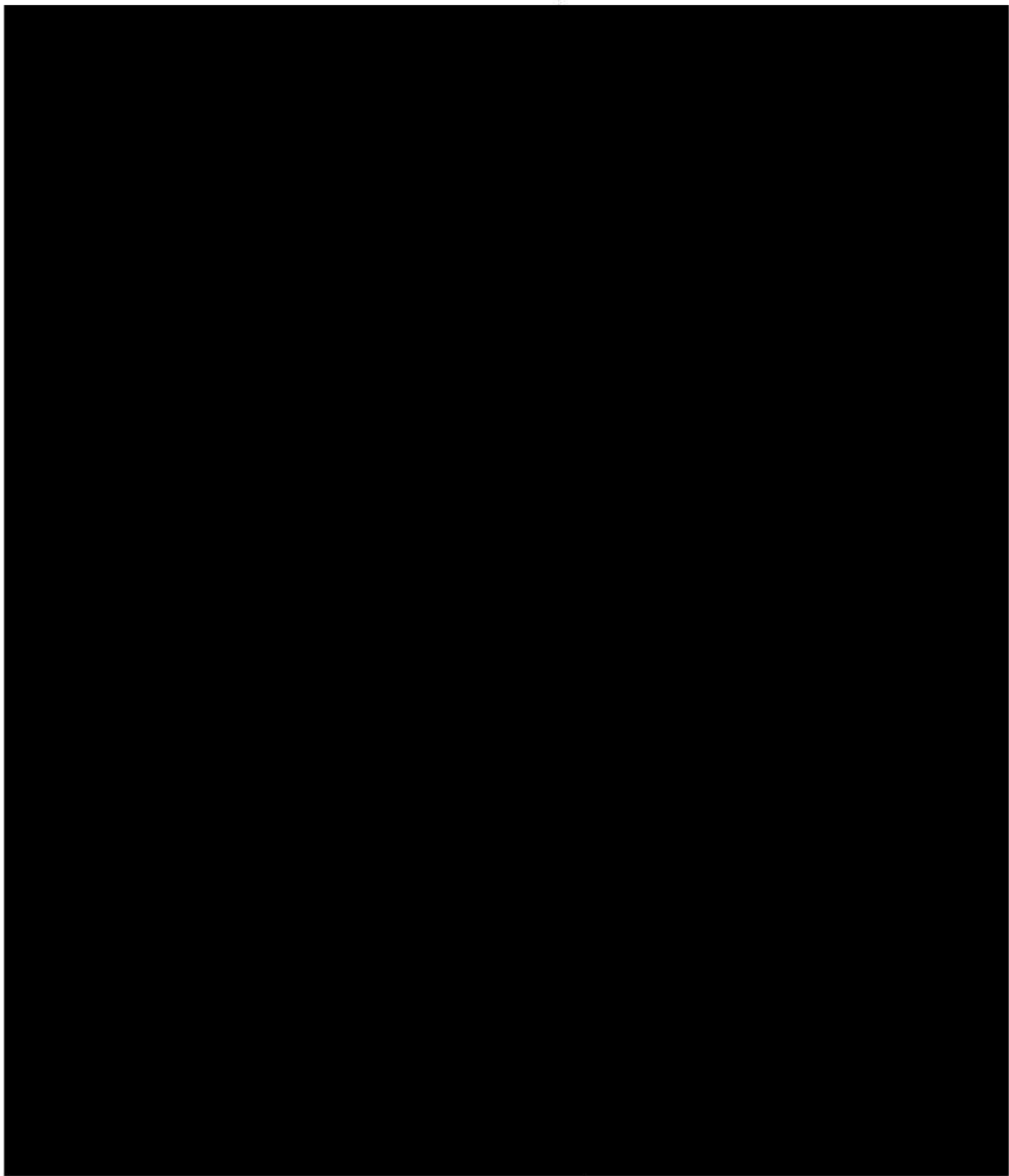
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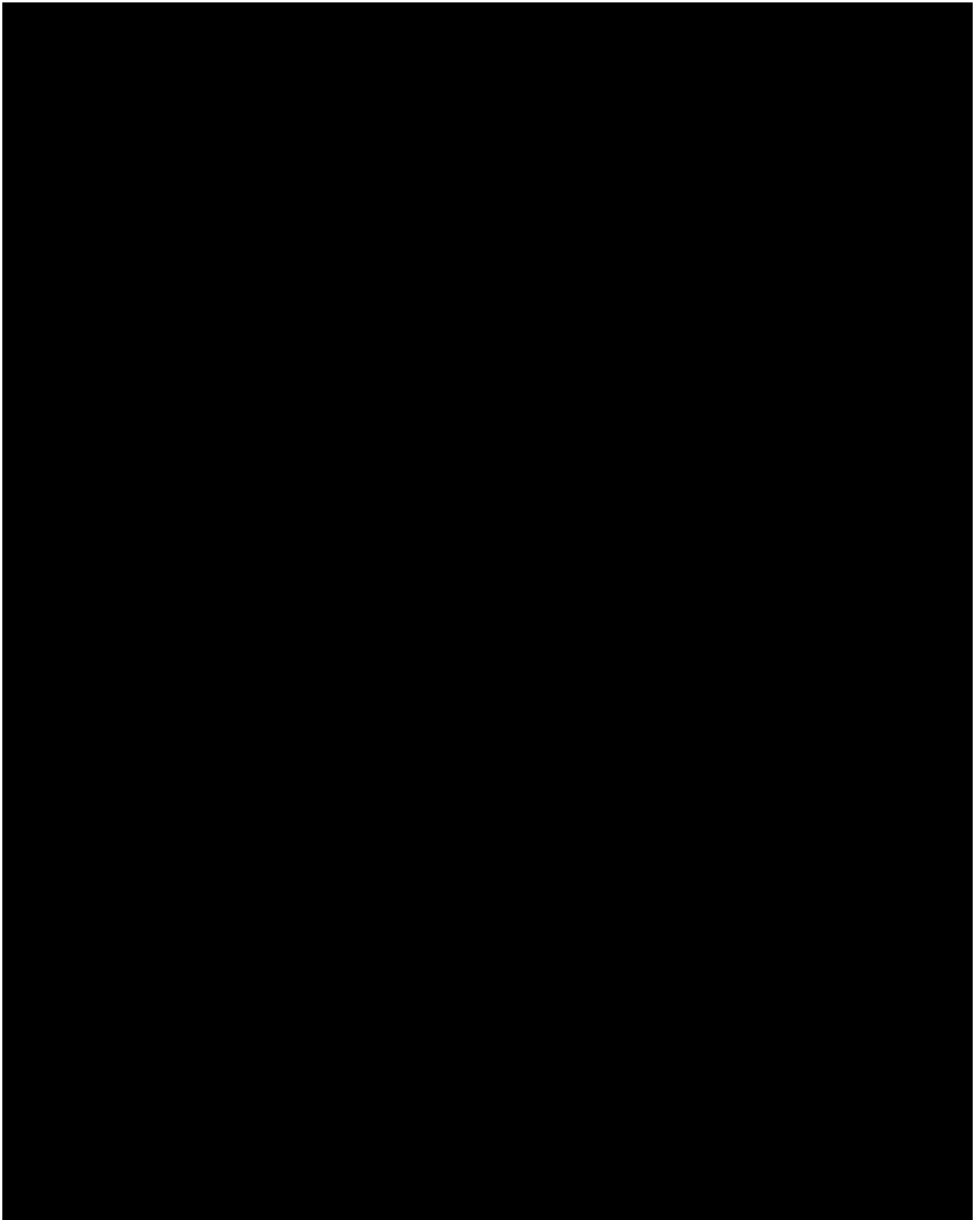
Sudan's Designation for Temporary Protected Status

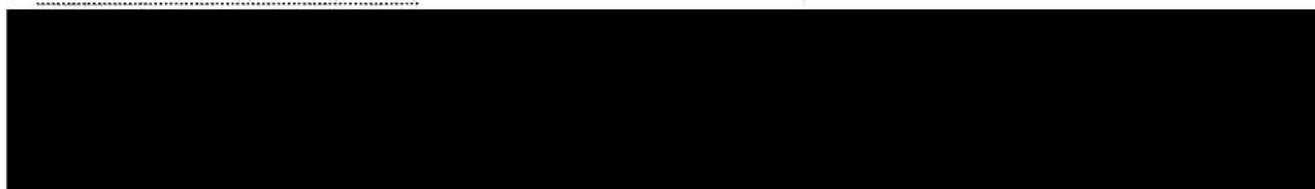
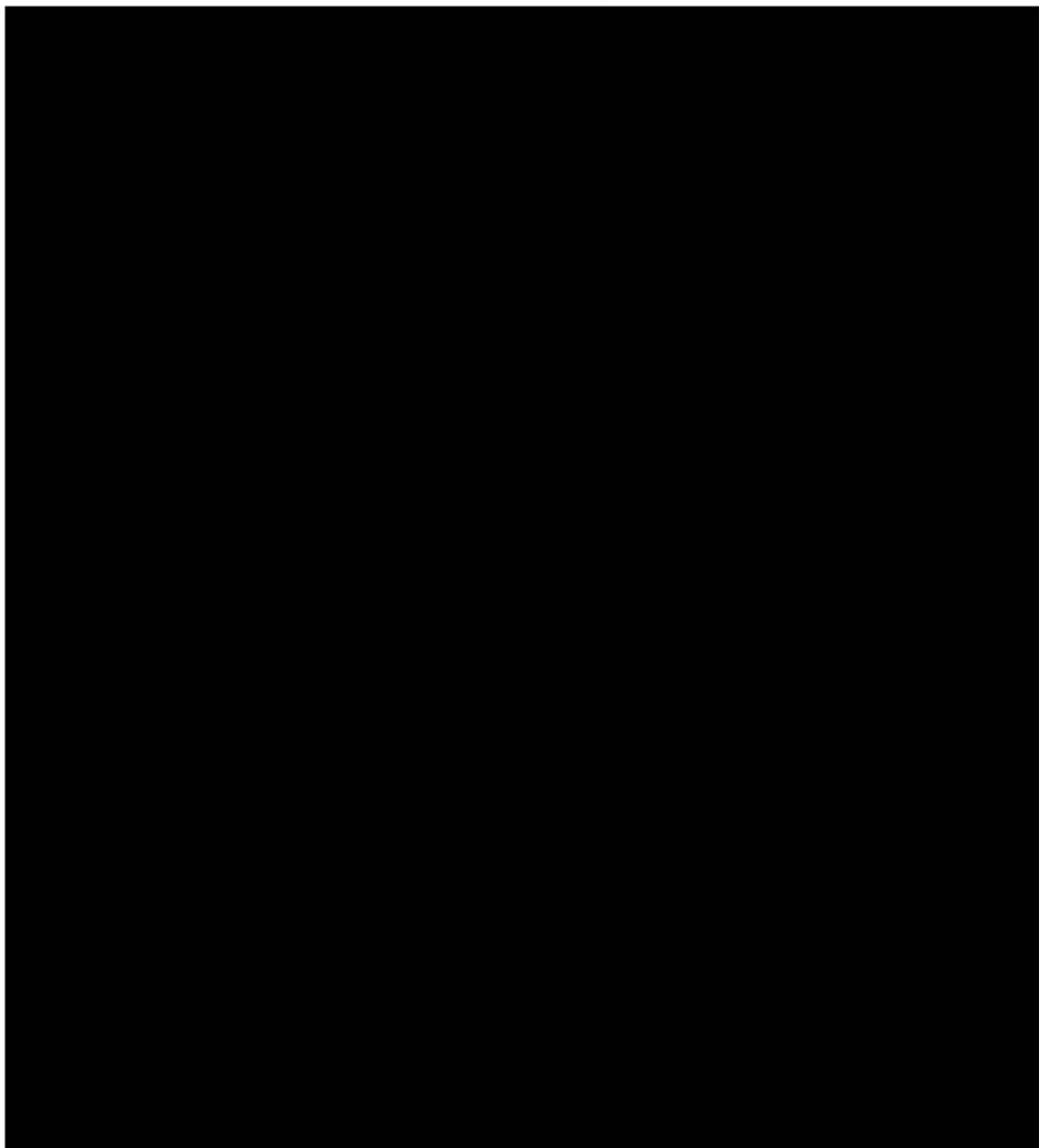
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**Sudan's Designation for Temporary Protected Status**

Decision: You may choose to extend and redesignate, simply extend, or terminate Sudan's TPS designation

1. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate South Sudan for TPS for (circle one):

6 months

12 months

18 months

Approve/date \_\_\_\_\_

2. Extend: Extend Sudan's designation for TPS for (circle one):

6 months

12 months

18 months

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

6 months

12 months

18 months

Other \_\_\_\_\_

Approve/date \_\_\_\_\_

*ESh* 9/1/2017

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of the Director (MS 2000)  
Washington, DC 20529-2000



U.S. Citizenship  
and Immigration  
Services

August 28, 2017

**DECISION**

MEMORANDUM FOR THE SECRETARY

FROM:

James W. McCament  
Acting Director

SUBJECT:

**Sudan's Designation for Temporary Protected Status**

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the conditions in Sudan and is presenting options for your consideration. As part of the review process, USCIS has consulted with the Department of State (DOS). As of the date of this memorandum, DOS' assessment and recommendation are under review by Secretary Tillerson's office. The draft package that was submitted to Secretary Tillerson's office for review assesses that the statutory conditions supporting Sudan's TPS designation continue to be met and recommends an 18-month extension of Sudan's designation for TPS. This memorandum relies upon the content of the draft package and will be updated or supplemented, as necessary, once the final country condition assessment and recommendation are approved by Secretary Tillerson and formally transmitted to DHS.

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); see also Attachment A: Temporary Protected Status Legal Authority.

INTERNAL PRE-DECISIONAL RECOMMENDATION

## Sudan's Designation for Temporary Protected Status

Page 2

**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's designation has been continuously extended on these same grounds since the initial designation in 1997. Sudan has also been redesignated for TPS three times—in 1999, 2004, and 2013—modifying the eligibility requirements and permitting additional individuals to register for TPS.<sup>3</sup> To be eligible for TPS under Sudan's designation, along with meeting the other eligibility requirements, Sudanese nationals must have continuously resided in the United States since January 9, 2013, and have been continuously physically present in the United States since May 3, 2013.

Demographic Information on Sudanese TPS Beneficiaries

There are currently 1,039 Sudanese TPS beneficiaries,<sup>4</sup> 31 percent female and 69 percent male. They range in age at the time of approval from 3-79 years of age, with most in their 20s, 30s, or 40s. Fifty-three were 18 years of age or younger at the time of approval. Sudanese TPS beneficiaries live in nearly every state across the country, with New York, Texas, and Virginia hosting the largest populations with one hundred or more Sudanese TPS beneficiaries each. The most commonly self-reported immigration statuses at the time of initial TPS application included visitors (113), students (178), and "unknowns" (460). Five reported their status as entering without inspection.<sup>5</sup>

Country Conditions

USCIS and DOS have each conducted a thorough review of conditions in Sudan. The USCIS country condition report can be found in Attachment B. In summary, the ongoing armed conflict and extraordinary and temporary conditions that supported Sudan's designation for TPS persist.

Since the last extension, armed conflict between government forces and opposition groups in Sudan has continued, resulting in an ongoing lack of security and safety for civilians, particularly in conflict-affected regions. 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 freedoms of religion and assembly with violent

<sup>2</sup> See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997). See also INA § 244(b)(1)(A), (C).

<sup>3</sup> See Extension and Redesignation of Sudan under the Temporary Protected Status Program, 64 FR 61128 (Nov. 9, 1999); Extension and Redesignation of Temporary Protected Status for Sudan, 69 FR 60168 (Oct. 7, 2004); Extension and Redesignation of Sudan for Temporary Protected Status, 78 FR 1872 (Jan. 9, 2013).

<sup>4</sup> The total number of beneficiaries represents all individuals who have been granted TPS since Sudan's designation in 1997 and have not had their TPS withdrawn. Not all of these individuals continue to re-register because they have adjusted to another valid immigration status, have left the United States, are no longer eligible for TPS, or have failed to re-register for other reasons. As a result, the number of beneficiaries that USCIS expects to re-register for TPS is lower than the total number of beneficiaries. Based on statistics from the last re-registration period, USCIS estimates that approximately 370 re-registration applications will be filed if Sudan's designation for TPS is extended.

<sup>5</sup> The TPS statute does not require individuals to have lawful status in order to qualify for TPS. The TPS application form does request the applicant's status at the time of application, and this information is recorded in USCIS systems. However, the information is self-reported and not all applicants provide this information on the form in a standard or recordable fashion.

INTERNAL PRE-DECISIONAL RECOMMENDATION



Sudan's Designation for Temporary Protected Status  
Page 3

suppression of protests. In 2016, the government of Sudan undertook an aerial bombardment campaign that resulted in civilian casualties and leveled numerous villages. In May 2017, Sudanese officials demolished two Sudanese Church of Christ churches, which were the first on a list of 27 that authorities had earmarked for demolition in February.

Sudan faces ongoing conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). As a result of the continuing armed conflict, hundreds of thousands of Sudanese have fled to neighboring countries. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet been able to return home due to persistent insecurity. Over 100,000 Sudanese have been newly displaced since 2016.

The number of people currently in need of humanitarian assistance in Sudan is 4,800,000 (over 10 percent of the total population of 39.58 million as of 2016). Above-average harvests have moderately improved food security across much of Sudan. However, populations in conflict-affected areas continue to experience acute levels of food insecurity, with nearly 2,773,000 children suffering from acute or severe acute malnutrition. In addition to food insecurity, access to clean drinking water remains a challenge in Sudan, and, in August 2016, a cholera outbreak began that is currently affecting several states. At least 15,000 to 23,000 people have been infected, with an estimated 280 to 820 deaths. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, they remain unable to fully and consistently provide timely and impartial humanitarian access.

Women and children have been particularly affected by the conflict. Particularly in Darfur, sexual and gender-based violence remains a grave concern, and there are many documented incidents of children being killed and maimed. Children also face recruitment by both the government and armed groups.

Sudan has faced significant economic instability since the secession of South Sudan in 2011, characterized by much reduced economic growth and high inflation (estimated at 16.5 percent in July 2016). The labor market is underdeveloped, and much of the labor force is employed in the informal sector.

#### Options

Your options include the following actions:

##### 1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, you must extend the TPS designation for an additional period of 6, 12, or 18 months. The review of conditions in Sudan indicates that it remains unsafe for individuals to return to Sudan and that the statutory requirements to designate a country for TPS under *Immigration and Nationality Act* § 244(b)(1)(A) (ongoing armed conflict) and under § 244(b)(1)(C) (extraordinary and temporary conditions) continue to be met.

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Sudan's Designation for Temporary Protected Status  
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From an operational perspective, extension periods of less than 18 months are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Additionally, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation.

An 18-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through May 2, 2019.

2) *Redesignate Sudan for TPS*

In addition to extending Sudan's current designation for TPS, you may, in your discretion, also redesignate Sudan for TPS. This would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013.

Redesignation of a country for TPS is recommended only sparingly, usually in association with a significant deterioration of conditions since the most recent designation. Country conditions do not indicate a new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States. Because the conditions supporting Sudan's TPS designation persist, termination does not appear to be warranted.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. You also have the option to provide for an orderly transition period (e.g., 6, 12, or 18 months) after which TPS documentation will end. Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. See INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

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Sudan's Designation for Temporary Protected Status  
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**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Recommendation:** USCIS recommends termination, but to delay the effective date of the termination by 12 months to provide for an orderly transition for those recipients to return to Sudan. This recommendation is supported by the following factors:

- Secretary Tillerson did not make a recommendation for Sudan.
- There is ongoing conflict in some regions, but not the entire country.
  - As any ongoing armed conflict is limited to certain parts of Sudan, extraordinary and temporary conditions preventing the return of their nationals no longer exist.
  - As any ongoing armed conflict is limited to certain parts of Sudan, requiring Sudanese nationals to return to their country does not currently pose a serious threat to their personal safety.
- There were unilateral ceasefires in October 2016 which led to a reduction in violence and rhetoric from the conflict parties.
- President Obama, in an Executive Order just before leaving office, lifted sanctions on Sudan for six months. In this EO, he recognized Sudan's positive steps to improve (see EO from January 2017- <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13761.pdf>).
- President Trump issued another EO to give them 3 additional months, citing improved counterterrorism efforts and other progress to promote regional stability. See also State Department release: <https://www.state.gov/r/pa/prs/ps/2017/07/272539.htm>
- The UK only advises against all travel or all but essential travel to certain parts of Sudan. <https://www.gov.uk/foreign-travel-advice/sudan>.
- Many refugees from South Sudan have arrived in Sudan and are being supported. Nearly 152,000 refugees have arrived this year. <https://www.unocha.org/story/hope-south-sudanese-refugees-arriving-darfur>
- Humanitarian assistance has improved: [http://reliefweb.int/sites/reliefweb.int/files/resources/Sudan\\_Humanitarian\\_Dashboard\\_A4\\_%28Jan\\_-\\_Dec\\_2016%29.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Sudan_Humanitarian_Dashboard_A4_%28Jan_-_Dec_2016%29.pdf)
- Unemployment rate has decreased; GDP growth rate is up. [https://theodora.com/wfbcurrent/sudan/sudan\\_economy.html](https://theodora.com/wfbcurrent/sudan/sudan_economy.html)
- According the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3 percent as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4 percent in 2017 and 3.6

<sup>6</sup> See INA § 244(b)(3)(A).

<sup>7</sup> See INA § 244(b)(3)(A), (C).

INTERNAL PRE-DECISIONAL RECOMMENDATION

Sudan's Designation for Temporary Protected Status  
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percent in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.

**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: Extend Sudan's designation for TPS for (circle one):

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

2. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

*6 months*

*12 months*

*18 months*

*Other* \_\_\_\_\_

Approve/date \_\_\_\_\_

**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan

Attachment C: Demographic Data

INTERNAL PRE-DECISIONAL RECOMMENDATION



U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Office of the Director (MS 2000)*  
Washington, DC 20529-2000




U.S. Citizenship  
and Immigration  
Services

August 17, 2017

## DECISION

### MEMORANDUM FOR THE SECRETARY

FROM: James W. McCament   
Acting Director

SUBJECT: **Sudan's Designation for Temporary Protected Status**

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the conditions in Sudan and is presenting options for your consideration. As part of the review process, USCIS has consulted with the Department of State (DOS). As of the date of this memorandum, DOS' assessment and recommendation are under review by Secretary Tillerson's office. The draft package that was submitted to Secretary Tillerson's office for review assesses that the statutory conditions supporting Sudan's TPS designation continue to be met and recommends an 18-month extension of Sudan's designation for TPS. This memorandum relies upon the content of the draft package and will be updated or supplemented, as necessary, once the final country condition assessment and recommendation are approved by Secretary Tillerson and formally transmitted to DHS.

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); *see also* Attachment A: Temporary Protected Status Legal Authority.

INTERNAL PRE-DECISIONAL RECOMMENDATION

**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's designation has been continuously extended on these same grounds since the initial designation in 1997. Sudan has also been redesignated for TPS three times—in 1999, 2004, and 2013—modifying the eligibility requirements and permitting additional individuals to register for TPS.<sup>3</sup> To be eligible for TPS under Sudan's designation, along with meeting the other eligibility requirements, Sudanese nationals must have continuously resided in the United States since January 9, 2013, and have been continuously physically present in the United States since May 3, 2013.

#### Demographic Information on Sudanese TPS Beneficiaries

There are currently 1,039 Sudanese TPS beneficiaries,<sup>4</sup> 31 percent female and 69 percent male. They range in age at the time of approval from 3-79 years of age, with most in their 20s, 30s, or 40s. Fifty-three were 18 years of age or younger at the time of approval. Sudanese TPS beneficiaries live in nearly every state across the country, with New York, Texas, and Virginia hosting the largest populations with one hundred or more Sudanese TPS beneficiaries each. The most commonly self-reported immigration statuses at the time of initial TPS application included visitors (113), students (178), and "unknowns" (460). Five reported their status as entering without inspection.<sup>5</sup>

#### Country Conditions

USCIS and DOS have each conducted a thorough review of conditions in Sudan. The USCIS country condition report can be found in Attachment B. In summary, the ongoing armed conflict and extraordinary and temporary conditions that supported Sudan's designation for TPS persist.

<sup>2</sup> See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997). See also INA § 244(b)(1)(A), (C).

<sup>3</sup> See Extension and Redesignation of Sudan under the Temporary Protected Status Program, 64 FR 61128 (Nov. 9, 1999); Extension and Redesignation of Temporary Protected Status for Sudan, 69 FR 60168 (Oct. 7, 2004); Extension and Redesignation of Sudan for Temporary Protected Status, 78 FR 1872 (Jan. 9, 2013).

<sup>4</sup> The total number of beneficiaries represents all individuals who have been granted TPS since Sudan's designation in 1997 and have not had their TPS withdrawn. Not all of these individuals continue to re-register because they have adjusted to another valid immigration status, have left the United States, are no longer eligible for TPS, or have failed to re-register for other reasons. As a result, the number of beneficiaries that USCIS expects to re-register for TPS is lower than the total number of beneficiaries. Based on statistics from the last re-registration period, USCIS estimates that approximately 370 re-registration applications will be filed if Sudan's designation for TPS is extended.

<sup>5</sup> The TPS statute does not require individuals to have lawful status in order to qualify for TPS. The TPS application form does request the applicant's status at the time of application, and this information is recorded in USCIS systems. However, the information is self-reported and not all applicants provide this information on the form in a standard or recordable fashion.

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Since the last extension, armed conflict between government forces and opposition groups in Sudan has continued, resulting in an ongoing lack of security and safety for civilians, particularly in conflict-affected regions. 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 freedoms of religion and assembly with violent suppression of protests. In 2016, the government of Sudan undertook an aerial bombardment campaign that resulted in civilian casualties and leveled numerous villages. In May 2017, Sudanese officials demolished two Sudanese Church of Christ churches, which were the first on a list of 27 that authorities had earmarked for demolition in February.

Sudan faces ongoing conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). As a result of the continuing armed conflict, hundreds of thousands of Sudanese have fled to neighboring countries. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet been able to return home due to persistent insecurity. Over 100,000 Sudanese have been newly displaced since 2016.

The number of people currently in need of humanitarian assistance in Sudan is 4,800,000 (over 10 percent of the total population of 39.58 million as of 2016). Above-average harvests have moderately improved food security across much of Sudan. However, populations in conflict-affected areas continue to experience acute levels of food insecurity, with nearly 2,773,000 children suffering from acute or severe acute malnutrition. In addition to food insecurity, access to clean drinking water remains a challenge in Sudan, and, in August 2016, a cholera outbreak began that is currently affecting several states. At least 15,000 to 23,000 people have been infected, with an estimated 280 to 820 deaths. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, they remain unable to fully and consistently provide timely and impartial humanitarian access.

Women and children have been particularly affected by the conflict. Particularly in Darfur, sexual and gender-based violence remains a grave concern, and there are many documented incidents of children being killed and maimed. Children also face recruitment by both the government and armed groups.

Sudan has faced significant economic instability since the secession of South Sudan in 2011, characterized by much reduced economic growth and high inflation (estimated at 16.5 percent in July 2016). The labor market is underdeveloped, and much of the labor force is employed in the informal sector.

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Sudan's Designation for Temporary Protected Status

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### Options

Your options include the following actions:

#### 1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, you must extend the TPS designation for an additional period of 6, 12, or 18 months. The review of conditions in Sudan indicates that it remains unsafe for individuals to return to Sudan and that the statutory requirements to designate a country for TPS under *Immigration and Nationality Act* § 244(b)(1)(A) (ongoing armed conflict) and under § 244(b)(1)(C) (extraordinary and temporary conditions) continue to be met.

From an operational perspective, extension periods of less than 18 months are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Additionally, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation.

An 18-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through May 2, 2019.

#### 2) *Redesignate Sudan for TPS*

In addition to extending Sudan's current designation for TPS, you may, in your discretion, also redesignate Sudan for TPS. This would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013.

Redesignation of a country for TPS is recommended only sparingly, usually in association with a significant deterioration of conditions since the most recent designation. Country conditions do not indicate a new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

#### 3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits

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## Sudan's Designation for Temporary Protected Status

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for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States. Because the conditions supporting Sudan's TPS designation persist, termination does not appear to be warranted.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. You also have the option to provide for an orderly transition period (e.g., 6, 12, or 18 months) after which TPS documentation will end. Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. *See* INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

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<sup>6</sup> *See* INA § 244(b)(3)(A).

<sup>7</sup> *See* INA § 244(b)(3)(A), (C).

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Sudan's Designation for Temporary Protected Status

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**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: Extend Sudan's designation for TPS for (circle one):

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

2. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

*6 months*

*12 months*

*18 months*

*Other* \_\_\_\_\_

Approve/date \_\_\_\_\_

**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan

Attachment C: Demographic Data

INTERNAL PRE-DECISIONAL RECOMMENDATION

### **Attachment A - Temporary Protected Status (TPS) Legal Authority**

Pursuant to section 244(b)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a(b)(1), the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies of the Government, may designate a foreign State (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State).

At least 60 days before the expiration of a TPS designation, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign State designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension of the TPS designation. *See* INA § 244(b)(3)(A); 8 U.S.C. § 1254a(b)(3)(A)-(C). If the Secretary determines that the foreign State no longer meets the conditions for the TPS designation, he must terminate the designation. *See* INA § 244(b)(3)(B); 8 U.S.C. § 1254a(b)(3)(B). Although the Secretary must make his determination on extension or termination at least 60 days before the expiration of the TPS designation, publication of the required *Federal Register* notice announcing his decision must be “on a timely basis.” *See* INA § 244(b)(3)(A). There is also an automatic, minimum six-month extension of a country’s TPS designation if the Secretary does not make a decision under INA § 244(b)(3)(A); 8 U.S.C. § 1254a(b)(3)(A) that the foreign state no longer meets the conditions for designation. *See* INA § 244(b)(3)(C); 8 U.S.C. § 1254a(b)(3)(C).

After the Secretary designates a country for TPS, nationals of the country (and persons without nationality who last habitually resided in the country) may apply for TPS, but they must individually demonstrate their eligibility pursuant to the criteria established in INA § 244(c) and the TPS regulations at 8 C.F.R. § 244.1 *et seq.* These criteria include, but are not limited to, requirements that the applicant show continuous physical presence in the United States since the effective date of the country designation and continuous residence since such date as the Secretary determines; admissibility as an immigrant (with limited exceptions); that the applicant is not ineligible under certain mandatory criminal history, terrorism, and national security bars as specified in INA § 244(c)(2)(A-B); and that the applicant is registering for TPS in accordance with regulatory procedures in 8 C.F.R. §§ 244.2 – 244.9.

If granted TPS, the individual receives employment authorization and an Employment Authorization Document, if requested, that is valid for the period that he or she holds TPS. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. When a TPS country designation ends, TPS beneficiaries maintain the same immigration status, if any, that they held prior to TPS (unless that status has expired or been terminated) or any other status they may have acquired while registered for TPS.



**TEMPORARY PROTECTED STATUS CONSIDERATIONS: Sudan – August 7, 2017****ONGOING ARMED CONFLICT / EXTRAORDINARY AND TEMPORARY CONDITIONS**  
(Covering events since July 2015)**SUMMARY**

The Jebel Marra area of the Darfur Region and the states of South Kordofan and Blue Nile (known as the “Two Areas”) are “priority areas” of humanitarian concern due to ongoing conflict and outstanding humanitarian needs.<sup>1</sup> From January to October 2016, conflict between the government of Sudan’s Sudanese Armed Forces (SAF) and the Darfuri opposition group of the Abdul Wahid-led faction of the Sudan Liberation Movement/Army (SLM/A-AW) displaced an estimated 160,000 to 195,000 individuals from areas of Jebel Marra.<sup>2</sup> Since January 2016, the resumption of ground hostilities between the SAF and the Sudan People’s Liberation Movement-North (SPLM-N) in Southern Kordofan and Blue Nile, followed by aerial bombardment of civilians by the government forces, led to a rapid deterioration of the security situation in the Two Areas.<sup>3</sup>

By October 2016, the government of Sudan, the SPLM-N, and the two other Darfuri opposition groups, the Justice Equality Movement (JEM) and the Mini Minawi-led faction of the Sudan Liberation Movement/Army (SLM/A-MM) renewed unilateral ceasefires.<sup>4</sup> The government’s ceasefire is until the end of July 2017, while the ceasefire among the armed groups is until April 2017.<sup>5</sup> In recent months, there has been a reduction in violence and rhetoric from the conflict parties, with the notable exception of the area of Darfur under SLA/AW control.<sup>6</sup> However government forces from SAF and the Rapid Support Forces (RSF) continue to attack alleged armed groups positions and bomb villages suspected of hosting opposition forces.<sup>7</sup> In the Two Areas, the Assessment Capacities Project (ACAPS) March 2017 report states:

The SPLM-N recently developed a new negotiating position that includes the removal of President al-Bashir and the achievement of a transition agreement among the opposition. Its condition for a truce is to allow access to civilians in conflict-affected areas. The Sudanese government firmly refuses, accusing the SPLM-N of wanting to smuggle weapons.<sup>8</sup>

Conflict resulting from intercommunal violence and attacks by organized criminal groups and militias against civilians also continued in Darfur.<sup>9</sup> Indiscriminate attacks on the civilian population (including aerial bombardment) were also reported, but could not be verified due to limitations on access to affected areas placed by the Sudanese government.<sup>10</sup> Organized criminals, including armed nomads and militia groups, have taken advantage of the security

<sup>1</sup> Sudan- Complex Emergency Fact Sheet #1, US Agency for International Development Fiscal Year 2017, Nov. 28, 2016, pg. 2.

<sup>2</sup> Ibid.

<sup>3</sup> Report of the IE on the situation of human rights in the Sudan, UN Human Rights Council, July 28, 2016, pg. 11.

<sup>4</sup> Crisis Analysis –Sudan/ Peace Negotiations Section, ACAPS, last updated March 27, 2017(last visited on March 31, 2017).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016 pg. 9.

<sup>10</sup> Ibid, pg. 9-10.

vacuum in the region to commit various criminal acts, including attacks and harassment of the civilian population, murder, rape, armed robberies, abductions and arson.<sup>11</sup>

Moreover, while armed conflict has been the primary driving force behind the humanitarian needs in Sudan, poverty, floods, drought, and environmental degradation have also significantly affected the livelihoods of vulnerable people, particularly children.<sup>12</sup> Conflict and insecurity have meant that arable lands in some food producing areas cannot be accessed, and even when crops can be grown, an inadequate transportation infrastructure prevents efficient access to markets.<sup>13</sup>

### NUMBERS AT A GLANCE

Figures are from the 2017 United Nations (UN) Humanitarian Needs Overview for Sudan report.

#### Population Displacement

- Internally Displaced Persons in Sudan - 2,300,000 (in government-controlled conflict areas)<sup>14</sup>
- Internally Displaced Persons in Darfur - 1,600,000 in camps, 500,000 outside camps (per government); and additional 500,000 live in host communities/settlements (per UN);<sup>15</sup>
- Internally Displaced Persons in the Two Areas- South Kordofan and Blue Nile - 200,000 (per government) versus 545,000 (per opposition groups).<sup>16</sup>

#### Humanitarian Needs

- Number of People in Need of Humanitarian Assistance in Sudan - 4,800,000;<sup>17</sup>
- Number of People in Need of Humanitarian Assistance in Darfur - 2,100,000;<sup>18</sup>
- Number of People in Need of Humanitarian Assistance in Two Areas (South Kordofan and Blue Nile - 230,000).<sup>19</sup>

#### Food Security and Acute Malnutrition

- Number of People in Need - 3,600,000;<sup>20</sup>
- Number of Children Suffering from Acute Malnutrition - 2,200,000;<sup>21</sup>
- Number of Children Suffering from Severe Acute Malnutrition - 573,000.<sup>22</sup>

### DARFUR

In its January 2017 report, a United Nations Panel of Experts on Sudan offered the following assessment of the scope of the conflict in Darfur:

<sup>11</sup> Ibid, pg. 10.

<sup>12</sup> Humanitarian Needs Overview, Sudan, United Nations Office of Humanitarian Assistance, March 24, 2017, pg. 10.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid, pg 7.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid, pg. 12.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid, pg 4.

<sup>20</sup> Ibid, pg. 20.

<sup>21</sup> Ibid, pg. 11.

<sup>22</sup> Ibid.

While the conflict has remained geographically circumscribed during the reporting period localized intercommunal violence, militia activity and banditry have continued unabated in the five states of Darfur, posing a threat to internal security and stability. Information gathered by the Panel indicates that criminal activity is one of the major causes of civilian casualties in Darfur.<sup>23</sup>

In Darfur, 1.6 million internally displaced persons (IDPs) are registered as living in camps.<sup>24</sup> Estimates of unregistered IDPs-- displaced people living in rural settlements and urban areas-- vary considerably, especially as there is no systematic registration of displacement outside of camps.<sup>25</sup> The official government estimate is that an additional 500,000 IDPs live outside camps in Darfur, and the UN and its partners estimate that a further half a million displaced people live in host communities and settlements in Darfur.<sup>26</sup>

### **Jebel Marra Region**

During this reporting period, the Jebel Marra region of Darfur experienced increased conflict between the Government of Sudan and the SLA/AW.<sup>27</sup> On January 14, 2016, the government launched a major military operation in SLA/AW locations near Sortony and Tawila in North Darfur and Nertiti in Central Darfur,<sup>28</sup> “accusing the rebel movement of looting and attacking civilians and military and commercial convoys in the area.”<sup>29</sup> Government forces included members of the SAF and the Rapid Support Forces (RSF)<sup>30</sup> as well as militia forces referred to by the local population as ‘Janjaweed,’ who fought in concert with official government forces throughout the campaign.<sup>31</sup>

According to Amnesty International, “the goal of the government’s military campaign [was] to attack and gain control over positions held by members of the SLA/AW, and, in turn, to put an end to the “rebellion” in Darfur.”<sup>32</sup> Throughout March and April 2016, ground fighting and aerial bombardment continued in areas south-west of Rockero and south-east of Golo in Central Darfur, and north of Kas in South Darfur.<sup>33</sup> On April 12, the SAF announced the capture of Sorrong, south-east of Golo, which it described as the last opposition stronghold in Jebel Marra.<sup>34</sup> By the end of July 2016, the United Nations Organization for the Coordination of

<sup>23</sup> Final Report of Panel of Experts on the Sudan, UN Security Council, January 9, 2017, pg. 10-11.

<sup>24</sup> Humanitarian Needs Overview, Sudan, United Nations Office of Humanitarian Assistance, March 24, 2017, pg. 7.

<sup>25</sup> Ibid.

<sup>26</sup> Humanitarian Needs Overview, Sudan, United Nations Office of Humanitarian Assistance, March 24, 2017, pg. 7.

<sup>27</sup> Report of the IE on the situation of human rights in the Sudan, UN Human Rights Council, July 28, 2016, pg. 5.

<sup>28</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 3.

<sup>29</sup> Ibid.

<sup>30</sup> In August 2013, in preparation for the launch of Operation Decisive Summer, the Government created an auxiliary force, the Rapid Support Forces, the members of which were mostly recruited from the Rizeigat tribe, many of whom formerly belonged to the Border Guards and, to a lesser extent, the Central Reserve Police. The Rapid Support Forces took an increasing role in operations against armed groups and reportedly committed gross violations of international human rights and humanitarian law. In January 2015, the Rapid Support Forces, which had been operating under the command of the National Intelligence Security Services, became part of the regular government forces through a constitutional amendment. In April 2015, the Rapid Support Forces were placed under the command of the Presidency. In January 2017, the Parliament passed the Rapid Support Forces Act, integrating those forces into the Sudan Armed Forces. Report of the Secretary-General on children and armed conflict in Sudan, UN Security Council, March 6, 2017, pg. 3.

<sup>31</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 4.

<sup>32</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 4.

<sup>33</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 3-4.

<sup>34</sup> Ibid., pg. 4.



Humanitarian Affairs estimated that as many as 251,000 people were displaced by violence in Jebel Marra.<sup>35</sup> Many of the survivors had fled to areas in Jebel Marra outside of government controlled areas, where they remained inaccessible to humanitarian actors and vulnerable to further attacks.<sup>36</sup>

Despite the Sudanese government declaring an end to the rebellion in all five states of Darfur once it had captured Sorrong in April 2016,<sup>37</sup> Amnesty International reported that by mid-September 2016, small-scale fighting between the government and the SLA/AW, including aerial bombardments by the government, was occurring.<sup>38</sup> Furthermore there are continued reports of continued violence in this region. According to ACAPS' March 2017 report:

In January 2017 violence has escalated in Kutum, Darfur with 45 attacks in Kutum and Kassab. Between 4 and 5 February, violence against civilians and IDPs were reported in the Kutum area of North Darfur, within one killed, two abducted, and two incidents of theft. On 1 January 2017, Sudanese government forces in Nertiti, Central Darfur, killed at least nine civilians and injured 69 in retaliation for the killing of a soldier one day before. This episode is significant because reports of direct government violence against civilians in government controlled areas have been rare in the past ten years.<sup>39</sup>

#### Humanitarian Consequences

According the United Nations, an estimated 160,000 to 195,000 civilians were reportedly internally displaced from the Jebel Marra area as a result of the fighting during the first half of 2016, including over 80,000 people who have been registered, verified or assisted by the UN.<sup>40</sup> The vast majority of the internally displaced persons were women or children.<sup>41</sup>

In a January 2017 report the United Nations Panel of Experts on Sudan stated that “government aircrafts conducted extensive aerial bombardments on civilian localities in and around the Jebel Marra area. This campaign of aerial bombardment reportedly resulted in civilian casualties and the destruction of numerous villages.”<sup>42</sup> Using satellite imagery, in its September 2016 report, Amnesty International “was able to confirm that 171 villages were destroyed or damaged. Numerous villages were attacked multiple times, including many that were torched after they had been abandoned by the local residents.”<sup>43</sup> Alleged human rights violations committed by the government forces “included the bombing of civilians and civilian property, the unlawful killing of men, women, and children, the abduction and rape of women, the forced displacement of civilians, and the looting and destruction of civilian property, including the destruction of entire villages.”<sup>44</sup> In addition, the attacks consistently began with aerial bombardment followed by the arrival of ground forces, which included uniformed soldiers riding in trucks and pick-up trucks,

<sup>35</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 4.

<sup>36</sup> Ibid.

<sup>37</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 4.

<sup>38</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 22.

<sup>39</sup> Crisis Analysis –Sudan/ Conflict Developments Section, ACAPS, last updated March 13, 2017 (last visited on March 31 2017).

<sup>40</sup> Final Report of Panel of Experts on Sudan, UN Security Council, January 9, 2017, pg. 22.

<sup>41</sup> Ibid.

<sup>42</sup> Final Report of Panel of Experts on Sudan, UN Security Council, January 9, 2017, pg. 22.

<sup>43</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 5.

<sup>44</sup> Ibid, pg. 4.

and both uniformed and plain-clothes fighters riding camels, horses, and motorbikes.<sup>45</sup> The soldiers would attack a village, kill civilians, and forcibly displace the population.<sup>46</sup>

Moreover, in September 2016, Amnesty International reported that the Sudanese government allegedly used chemical weapons in Jebel Marra, stating that “32 suspected chemical weapons attacks between January and September 2016”.<sup>47</sup> These attacks allegedly “took place in each of the four areas in Jebel Marra that experienced major violence in 2016” and were reportedly delivered by both bombs and by rockets.<sup>48</sup>

Amnesty International estimates “that between 200 and 250 people may have died as a result of exposure to the chemical weapons agents, with many – or most – being children.”<sup>49</sup> Such exposure resulted in:

“caregivers and survivors often reported that bodies, particularly of children, were swollen. Caregivers and parents of child survivors reported that children experienced a substantial loss in appetite after being exposed to the alleged chemical weapons agents. Several children reportedly refused to eat after being exposed and died. Several adult survivors also reported experiencing a loss of appetite in the aftermath of an attack. Several survivors reported that their young children experienced a regression in their motor functions and mental capabilities after exposure to the alleged chemical weapons agents, including an inability to walk or speak despite having previously been able to do so.”<sup>50</sup>

In a January 2017 report the United Nations Panel of Experts on Sudan stated that it was “aware of allegations that government forces used chemical weapons during their operations in Jebel Marra in 2016 and is conducting its own technical analysis of the allegations and intends to follow up on this issue.”<sup>51</sup>

#### Intercommunal Conflict

According to the United Nations, in many parts of Darfur inter-communal conflict is another main cause of insecurity, and recurrently causes substantial civilian displacement.<sup>52</sup> In its June 2016 report the African Union-United Nations Hybrid Operation Darfur (UNAMID) offered the following assessment on intercommunal conflict in Darfur:

The causes of intercommunal conflict are inherently linked to those of the broader Darfur conflict. Historically, this form of violence arose mainly between nomadic herder and sedentary farming communities over the ownership and use of resources, such as land. Since the beginning of the conflict, efforts to address such violence have failed to provide sustainable solutions, owing to the sociodemographic effects of drought, the

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<sup>45</sup> Ibid, pg. 18.

<sup>46</sup> Ibid.

<sup>47</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 69.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid, pg. 71.

<sup>51</sup> Final Report of Panel of Experts on Sudan, UN Security Council, January 9, 2017, pg. 23.

<sup>52</sup> Humanitarian Needs Overview, Sudan, United Nations Office of Humanitarian Assistance, March 24, 2017, pg. 7.



consequences of the war and the erosion of traditional conflict resolution mechanisms and land management structures. The ongoing rebellion and counter-insurgency operations in Darfur have significantly polarized Arab and non-Arab communities, thereby increasing the intensity of intercommunal fighting, particularly in terms of its impact on the civilian population.<sup>53</sup>

In 2015, intercommunal fighting resulted in approximately one third of all conflict-related fatalities and accounted for over 40 percent of the people displaced in Darfur.<sup>54</sup> Key land ownership disputes such as the one between the Berti and the Zayadiya in Malha, Al Kuma, and Mellit in North Darfur remained unresolved.<sup>55</sup> In South Darfur, in August 2015, fighting between the Salamat and Fallata tribes in Al Nadif, in Buram locality led to 83 fatalities on both sides.<sup>56</sup> Despite the signing of a ceasefire agreement between the two ethnic groups in September 2015, fighting once again resumed in February 2016, resulting in 35 deaths.<sup>57</sup> The situation has been further exacerbated by the widespread proliferation of weapons and the inadequacy of rule of law and judicial institutions, which contributes to a culture of impunity and the weakening of traditional conflict resolution mechanisms and reconciliation processes.<sup>58</sup>

There are reports of continued intercommunal violence in recent months. For example, in January 2017, residents of Tabit IDP camp and its neighboring villages in North Darfur complained of attacks by armed herders preventing them from going out to collect firewood and straw.<sup>59</sup> In February 2017, reports of tensions between members of the Rizeigat and Ma'aliya ethnic groups resulted in the killing of two people, while another sustained injuries in Tullus locality in South Darfur.<sup>60</sup>

### **BLUE NILE AND SOUTH KORDOFAN (TWO AREAS)**

In December 2016, the Sudan Consortium offered the following description of the situation in the Two Areas (South Kordofan and Blue Nile) region of Sudan:

Five years on from the start of the conflict, similar attacks by the Sudanese government continue unabated. In January 2016, our monitors documented 13 incidents, including three shellings (all in Dilling County), four extra-judicial killings, one abduction and two shootings. In February 2016, at least 74 bombs were reported to have been dropped and 78 rockets were launched, resulting in the death of one person and injury to seven others, including three children. In March, monitors recorded 181 dropped bombs and 642 fired

<sup>53</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 4.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, pg. 5.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*, pg. 4.

<sup>59</sup> Crisis Analysis --Sudan/ Conflict Developments Section, ACAPS, last updated March 13, 2017 (last visited on March 31 2017).

<sup>60</sup> *Ibid.*

shells and in April a total of 72 incidents with a significant increase in the number of children killed and injured by aerial bombardments. In May, our monitors recorded a total of 29 incidents in the two areas. One incident resulted in the deaths of six children which garnered significant coverage.<sup>61</sup>

Human Security Baseline reported in February 2016:

As in 2015, the Sudan Armed Forces (SAF) are largely stationed around the garrison towns, while the Popular Defence Forces and militia are leading the attacks. The militias are mainly organized as part of the Rapid Support Force under the command of the National Intelligence and Security Services.<sup>62</sup>

In March 2016, the SAF launched a multipronged attack in seven locations, three of which had never before been affected by conflict.<sup>63</sup> Between March and June 2016, the SAF dropped an estimated 227 bombs in these areas, and launched ground attacks on and captured civilian villages in Al Azarak, Mustaraq and Mardes.<sup>64</sup> The SAF burned down crops and fields, looted food stores and displaced 75,000 people, mainly from Al Azarak and surrounding villages.<sup>65</sup> The SAF maintained its presence in these areas despite a ceasefire announced by President Al Bashir in June 2016 preventing displaced civilians from returning to their homes and farming their crops.<sup>66</sup>

There are also reports of continued violence in recent months. A December 2016 assessment by the Armed Conflict Location and Event Data Project (ACLED) stated:

In South Kordofan, offensives targeted areas previously unaffected by conflict but on which many populations rely for food production. Government forces set up bases in these areas and stayed throughout the rainy season, building up their capacity ahead of the resumption of conflict in November, but also preventing civilians from returning to their homes and farming their crops.<sup>67</sup>

In its March 2017 assessment ACAPS reported that “according to the SPLM-N, government forces attacked their positions on 16 January 2017, wounding one fighter. On 22 February, clashes between SPLM-N and government forces resumed, killing at least three government soldiers.”<sup>68</sup>

<sup>61</sup> Attack on civilians in Southern Kordofan, Sudan 2011-2016, Sudan Consortium, Dec. 2016, pg. 4.

<sup>62</sup> Conflict in Two Areas, Human Security Baseline Assessment, Feb. 9, 2016, pg. 3-4.

<sup>63</sup> Sudan: Five Years and Counting, Amnesty International, Sept 29, 2016, pg. 8.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Sudan- December 2016 Update, Armed Conflict Location and Event Data Project, (last visited on March 31, 2017).

<sup>68</sup> Crisis Analysis –Sudan/ Conflict Developments Section, ACAPS, last updated March 13, 2017 (last visited on March 31 2017).

## SEXUAL AND GENDER-BASED VIOLENCE

Sexual and gender-based violence remains a grave concern in Darfur.<sup>69</sup> The lengthy nature of the conflict, the widespread proliferation of weapons, and the frequent intercommunal fighting have all added to the risk of exposure and the vulnerability of civilians, especially women and girls, to sexual and gender-based violence and conflict-related sexual violence, including in camps for internally displaced persons.<sup>70</sup> Incidents of rape by unidentified armed men, militiamen and armed nomads, and other perpetrator groups against women and girls are routinely reported by different sources.<sup>71</sup> At camps for internally displaced persons, women and girls are regularly exposed to sexual violence, including when outside the camps collecting water or firewood, or engaging in livelihood activities.<sup>72</sup>

According to the United Nations, despite taking some measures to address sexual and gender-based violence by the government, the climate of impunity continued to create an environment conducive to the perpetration of sexual violence.<sup>73</sup> Many incidents of sexual violence were not reported owing to fear of social stigmas associated with rape, fear of reprisals, and victims' lack of trust in the justice system to effectively investigate and prosecute perpetrators.<sup>74</sup> Despite efforts by UNAMID to provide security escorts to internally displaced women and girls as they undertake such activities, threats and violence, including sexual harassment and rape, continue.<sup>75</sup> Survivors of sexual and gender-based violence are faced with a range of challenges, including social stigma, police inaction, and the serious capacity deficit in the justice sector.<sup>76</sup> Such inaction has made victims reluctant to report incidents of sexual and gender-based violence to the police.<sup>77</sup>

## VIOLENCE AGAINST CHILDREN

The ongoing conflict in Darfur and the Two Areas continued to affect children.<sup>78</sup> Violence in Darfur, the Kordofans, Blue Nile and Abyei<sup>79</sup> has forced 1.9 million children to flee<sup>80</sup> -- 60 percent of the internally displaced persons in Darfur<sup>81</sup> -- many of whom have been separated from their families and affected by grave human rights violations.<sup>82</sup>

<sup>69</sup> Final Report of Panel of Experts on Sudan, UN Security Council, January 9, 2017, pg. 23.

<sup>70</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 11.

<sup>71</sup> Final Report of Panel of Experts on Sudan, UN Security Council, January 9, 2017, pg. 23.

<sup>72</sup> *Ibid* pg. 24.

<sup>73</sup> Report of the IE on the situation of human rights in the Sudan, UN Human Rights Council, July 28, 2016, pg. 10.

<sup>74</sup> *Ibid*.

<sup>75</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 11.

<sup>76</sup> *Ibid*.

<sup>77</sup> Special Report on Sudan- UNAMID, UN Security Council, June 8, 2016, pg. 11.

<sup>78</sup> Report of the Secretary --General on children and armed conflict in Sudan, UN Security Council, March 6, 2017, pg. 5.

<sup>79</sup> On 20 June 2011, the government of Sudan and the Sudan People's Liberation Movement (SPLM) [now South Sudan] signed an agreement on a temporary administrative arrangement for Abyei, which would have mandated for the demilitarization of Abyei and the establishment of a joint administration. However, Abyei's political future remains unresolved, the joint administration not established, and the SAF have a force of 120–150 troops stationed at Difra, Abyei's sole oil field, in violation of multiple United Nations Security Council resolutions. Update on Abyei, Human Security Baseline Assessment for Sudan and South Sudan, as of July 1, 2015 (last visited on March 31, 2017).

<sup>80</sup> Humanitarian Action for Children, United Nations Children Fund, pg. 1, 2017.

<sup>81</sup> Report of the Secretary --General on children and armed conflict in Sudan, UN Security Council, March 6, 2017, pg. 2.

<sup>82</sup> Humanitarian Action for Children, United Nations Children Fund, pg. 1, 2017.



The high numbers of documented incidents of the killing and maiming of children and sexual violence in Darfur also remain a grave concern.<sup>83</sup> According to a March 2017 report from the UN Secretary General on children in Sudan:

The majority of child casualties occurred during armed confrontations between government forces and armed groups and as a result of aerial bombardments. Incidents involving unexploded ordnance were also a significant cause of child casualties, with a total of 304 children affected, 84 of whom were killed and 220 maimed. In most instances, unexploded ordnance were found by children, who mistook them for toys or tampered with them. The intensification of tribal clashes also affected children. In addition, allegations were also received of child casualties during aerial bombardment by the Sudan Armed Forces.<sup>84</sup>

Incidents of violence affecting children were “perpetrated by all parties to the conflict, including government security forces, namely, the Sudan Armed Forces, the police, the Central Reserve Police, the Popular Defence Forces, the Border Guards, the Rapid Support Forces and government-affiliated militias.”<sup>85</sup> Children also face recruitment by both the government and armed groups.<sup>86</sup> The UN Secretary General’s report on children offered the following examples:

For example, in July and August 2015, three boys were reportedly recruited by the Sudan Armed Forces in El Damazin and released after their parents intervened. In 2015, a recruitment campaign by the Sudan Armed Forces was reportedly ongoing in Blue Nile State, during which children were allegedly recruited after obtaining official documents with a falsified age.<sup>87</sup>

During a visit to Sudan in March 2016, the Special Representative for Children and Armed Conflict was given access to 21 children who had been detained by the National Intelligence Security Services since April and August 2015 for their association with JEM. The children, who had been captured by the Rapid Support Forces in South Darfur State, were recruited by JEM in Southern Kordofan State and South Sudan and used in combat in Darfur and South Sudan. Some of them reported that they had been abducted by JEM.<sup>88</sup>

### HUMANITARIAN ACCESS

Despite recent reporting that the Sudanese government has eased access for humanitarian support<sup>89</sup>, the United Nations and its partners reported access denials in different regions of Darfur, in particular in parts of Jebel Marra affected by the 2016 crisis.<sup>90</sup> Issuance of entry visas and renewal of residency permits are frequently used to limit humanitarian action and, in some

<sup>83</sup> Report of the Secretary-General on children and armed conflict in Sudan, UN Security Council, March 6, 2017, pg. 5.

<sup>84</sup> *Ibid.*, pg. 8.

<sup>85</sup> *Ibid.*, pg. 2.

<sup>86</sup> *Ibid.*, pg. 6.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*, pg. 7.

<sup>89</sup> Although relief actors report improved access to some conflict-affected areas of Sudan, insecurity and bureaucratic challenges continue to impede critical humanitarian operations, particularly in areas of Darfur Region, including Jebel Marra Sudan Complex Emergency, Fact Sheet #2, FY 2017, US Agency for International Development, January 27, 2017, pg. 3.

<sup>90</sup> Final report of panel of experts on Sudan, UN Security Council, January 9, 2017, pg. 23.

cases, as a means of expelling humanitarian personnel.<sup>91</sup> In addition, restrictions on movements and the denial of access and clearances continue to be imposed on humanitarian agencies by the Sudanese authorities.<sup>92</sup> The result has been a steady reduction in humanitarian operational capacity in Darfur and other areas of Sudan.<sup>93</sup>

Amnesty International reported in September 2016 that “no international or national journalist, human rights investigator, or humanitarian actor has been permitted to carry out any credible assessment of the human rights or humanitarian situation in areas affected by the conflict in Jebel Marra in 2016.”<sup>94</sup> Furthermore, the UN “in October 2016, humanitarian actors reported that they had been unable to reach some of the affected communities to assess the needs of an estimated 50,000-85,000 people, who reportedly had been displaced by the fighting.”<sup>95</sup>

In the Two Areas region (South Kordofan and Blue Nile), the Sudanese government has consistently refused humanitarian access to areas controlled by the (SPLM-N), with devastating consequences on food supplies, health care and education.<sup>96</sup> The widespread destruction or damage to civilian property, including homes, fields, food stores, hospitals, health clinics, schools and market areas by these attacks has also disrupted agricultural production, health care and education in the area, contributing to the humanitarian crisis.<sup>97</sup> In the Blue Nile region, in mid-2016 there was only one international UN staff member.<sup>98</sup>

At the end of December 2016 Sudan's Humanitarian Aid Commission approved new guidelines to ease the movement of humanitarian workers within government-controlled areas, as aid workers will only need permission for movement within high-risk areas; however, as of the beginning of February 2017, there were no signs of eased restrictions.<sup>99</sup>

## ECONOMIC SITUATION

Sudan has faced significant economic instability after the secession of South Sudan in 2011. The World Bank reports:

The secession of South Sudan also induced multiple economic shocks; the most important and immediate was the loss of the oil revenue that accounted for over half of Sudan's government revenues and 95 percent of its exports. This has left huge challenges, as well as much reduced economic growth, and resulted in double-digit consumer price inflation, which, together with increased fuel prices, triggered violent protests in September 2013.<sup>100</sup>

<sup>91</sup> Report of the IE on the situation of human rights in the Sudan, UN Human Rights Council, July 28, 2016, pg. 10.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

<sup>94</sup> Scorched Earth, Poisoned Air, Amnesty International, September 2016, pg. 4.

<sup>95</sup> Final Report of Panel of experts on Sudan, UN Security Council, January 9, 2017, pg. 23.

<sup>96</sup> Sudan: Five Years and Counting, Amnesty International, Sept 29, 2016, pg. 7.

<sup>97</sup> Ibid.

<sup>98</sup> A Crisis Normalized: Civilian perspectives on the conflict in Sudan's Blue Nile State, International Refugee Rights Initiative, September 2016, pg. 25.

<sup>99</sup> Crisis Analysis –Sudan/ Humanitarian Access Section, ACAPS, last updated March 17, 2017 (last visited on March 31 2017).

<sup>100</sup> The World Bank in Sudan: Overview, World Bank, April 19, 2017 (last visited on August 3, 2017).



Sudan “remains a highly indebted country that has accumulated sizeable external arrears and has been in non-accrual status with the World Bank Group since 1994.”<sup>101</sup> At the end of 2015, Sudan’s external debt amounted to \$50 billion (61 percent of GDP), about 84 percent of which was in arrears.<sup>102</sup> Inflation has remained high in recent years, estimated at 16.5 percent in July 2016.<sup>103</sup>

Corruption is a significant problem in Sudan, “one of the world’s most corrupt nations,” which ranked 165th among the 168 countries surveyed in Transparency International’s 2015 Corruption Perceptions Index. Power and resources are concentrated in and around Khartoum, while outlying states are neglected and impoverished.<sup>104</sup>

The labor market remains underdeveloped, and much of the labor force is employed in the informal sector.<sup>105</sup> Additionally, a large portion of Sudan’s population remains outside of the formal banking sector, and access to credit remains limited.<sup>106</sup> According to Moody’s Analytics, Sudan’s unemployment rate is 13.6 percent (2014), with 46.5 percent (2009) of the population living below the poverty line.<sup>107</sup>

## Cholera

In August 2016, a cholera outbreak began in the Blue Nile state, and has since spread across several states in Sudan.<sup>108</sup> Conservative estimates suggest a minimum of between 15,000 to 23,000 people<sup>109</sup> have been infected, with 280 to 820 deaths.<sup>110</sup> In its June 2017 report the Assessment Capacities Project (ACAPS) reported that the outbreak has spread to Gedarif, White Nile, Khartoum, Sennar, River Nile, North Kordofan, and Gezira states.<sup>111</sup> As of June 2017, the outbreak has also spread to Darfur.<sup>112</sup> According to July 2017 ACAPS Briefing Note on Darfur:

The epidemic first spread to Naivasha camp for IDPs in North Darfur where it killed 12 and infected at least 95. As of 4 July, there are also reports of it having spread to Kabkabiya camp, North Darfur where 7 have died and 7 have been infected. It has since spread to East Darfur, including Kriu camp for South Sudanese refugees where 5 deaths and at least 100 infections were recorded as of 27 June, and Kalma camp in South Darfur where 6 have died and 32 are infected as of 29 June.<sup>113</sup>

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> IMF Executive Board Concludes 2016 Article IV Consultation with Sudan, International Monetary Fund, October 4, 2016.

<sup>104</sup> Sudan Index of Economic Freedom, Heritage Foundation, 2017, pg. 2.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Sudan- Economic Indicators, MOODY’S Analytics (last visited on August 3, 2017).

<sup>108</sup> Sudan Cholera outbreak, Assessment Capacities Project (ACAPS), June 16, 2017, pg. 2.

<sup>109</sup> Caseload numbers are conflicting as there has been no official recognition of a cholera outbreak and the government refers to it as acute watery diarrhea (AWD). Government figures state that 15,000 people have been infected and 279 have died from AWD between August 2016 and 2 June. In contrast, the National Epidemiological Corporation claims there have been at least 23,766 cholera infections and 820 deaths since the start of May 2017.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid, pg. 1.

<sup>112</sup> Sudan Conflict in Darfur, Briefing Note 6, ACAPS, July 6, 2017, pg. 2.

<sup>113</sup> Ibid.

According to the World Health Organization, “The arrival of refugees from cholera-affected areas in South Sudan also increases the threat of importation of the disease into Sudan, placing both refugees and host communities at risk.”<sup>114</sup> South Sudanese refugees face overcrowding and a lack of safe water and sanitation services in camps in Sudan, thus increasing the risk of waterborne diseases among refugees.<sup>115</sup> The White Nile state hosts a large South Sudanese refugee population and has had the highest number of cases of cholera.<sup>116</sup>

In its June 2017 report ACAPS stated Sudan’s “healthcare system suffers from a lack of funding and qualified personnel, with 36 percent of healthcare facilities not functioning at full capacity.”<sup>117</sup> Furthermore, access to clean drinking water remains an additional challenge; the “lack of access to clean water is most severe in Red Sea, Darfur, and Blue Nile states.”<sup>118</sup>

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<sup>114</sup> WHO responds to health needs of South Sudanese refugees in Sudan, World Health Organization, June 8, 2017.

<sup>115</sup> Ibid.

<sup>116</sup> Sudan Cholera outbreak, Assessment Capacities Project (ACAPS), June 16, 2017, pg. 2.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

**Attachment C: Demographic Data****South Sudan and Sudan Temporary Protected Status Beneficiaries****South Sudan and Sudan TPS Beneficiaries by Age:**

This table shows counts of individuals with approved TPS applications with a country of citizenship of South Sudan or Sudan by age at approval as of December 31, 2016.

<b>United States Citizenship and Immigration Services (USCIS)</b> <b>I-821, Application for Temporary Protected Status</b> <b>Q1. Country of Citizenship of South Sudan and Sudan</b> <b>Count of Approved Individuals by Age at Approval</b> <b>As of December 31, 2016</b>		
<b>Age at Approval</b>	<b>South Sudan</b>	<b>Sudan</b>
3		2
4		1
5		3
6		3
7		1
8		5
9		2
10		5
11	1	2
12		2
13		1
14		7
15	1	1
16	1	4
17		6
18	1	8
19	1	6
20	1	4
21		11
22	1	10

23	3	11
24	2	23
25	2	17
26		17
27	1	37
28	5	27
29	4	44
30	2	31
31		32
32	2	32
33	2	39
34	2	33
35	2	35
36	2	35
37		32
38	2	30
39		31
40		36
41	2	32
42	1	27
43		21
44		23
45	2	23
46		30
47		19
48	1	26
49		12
50		8
51	1	19
52		25
53	2	19
54		16
55		19
56		14
57		10
58		15
59		9
60		6



61		5
62		8
63		2
64		6
65		5
66		3
67		1
68		3
69	1	1
71		2
72		1
73		1
77	1	
78		1
79		1
<b>Grand Total</b>	<b>49</b>	<b>1,039</b>

**South Sudan and Sudan TPS Beneficiaries by Gender:**

This table shows counts of individuals with approved TPS applications with a country of citizenship of South Sudan or Sudan by gender as of December 31, 2016.

<b>United States Citizenship and Immigration Services (USCIS)</b> <b>I-821, Application for Temporary Protected Status</b> <b>Q2. Country of Citizenship of South Sudan and Sudan</b> <b>Count of Approved Individuals by Gender</b> <b>As of December 31, 2016</b>		
<b>Gender</b>	<b>South Sudan</b>	<b>Sudan</b>
FEMALE	10	318
MALE	39	718
UNKNOWN		3
<b>Grand Total</b>	<b>49</b>	<b>1,039</b>

**South Sudan and Sudan TPS Beneficiaries by State of Residence:**

This table shows counts of individuals with approved TPS applications with a country of citizenship of South Sudan or Sudan by beneficiary state as of December 31, 2016.

<b>United States Citizenship and Immigration Services (USCIS)</b> <b>I-821, Application for Temporary Protected Status</b> <b>Q3. Country of Citizenship of South Sudan and Sudan</b> <b>Count of Approved Individuals by Beneficiary State</b> <b>As of December 31, 2016</b>		
<b>Beneficiary State</b>	<b>South Sudan</b>	<b>Sudan</b>
ALABAMA	1	14
ARIZONA	2	8
CALIFORNIA	3	62
COLORADO		9
CONNECTICUT		17
DELAWARE		2
DISTRICT OF COLUMBIA	1	11
FLORIDA		35
GEORGIA		16
ILLINOIS		81
INDIANA	2	9
IOWA	4	17
KANSAS		6
KENTUCKY	1	
LOUISIANA		1
MAINE		5
MARYLAND	1	64
MASSACHUSETTS	3	14
MICHIGAN		27
MINNESOTA	4	31
MISSISSIPPI	1	1
MISSOURI		9
NEBRASKA	3	13
NEVADA		1
NEW HAMPSHIRE	2	3
NEW JERSEY		33
NEW MEXICO		2
NEW YORK	4	140

NORTH CAROLINA	1	32
NORTH DAKOTA	1	
OHIO	1	29
OREGON		2
PENNSYLVANIA	1	56
RHODE ISLAND		2
SOUTH CAROLINA		4
SOUTH DAKOTA	2	2
TENNESSEE	1	15
TEXAS	4	100
UTAH	3	2
VIRGINIA	2	144
WASHINGTON		14
WEST VIRGINIA	1	
WISCONSIN		6
<b>Grand Total</b>	<b>49</b>	<b>1,039</b>



**South Sudan and Sudan TPS Beneficiaries by Immigration Classification at Initial Application:**

This table shows counts of individuals with approved TPS applications with a country of citizenship of South Sudan or Sudan by beneficiary current class at initial application as of December 31, 2016.

<b>United States Citizenship and Immigration Services (USCIS)</b> <b>I-821, Application for Temporary Protected Status</b> <b>Q4. Country of Citizenship of South Sudan and Sudan</b> <b>Count of Approved Individuals by Beneficiary Class at Initial Application</b> <b>As of December 31, 2016</b>		
<b>Beneficiary Current Class at Initial TPS Application</b>	<b>South Sudan</b>	<b>Sudan</b>
1B1		3
A1	1	5
A2		15
A3		4
AS		16
ASD	1	8
ASY		1
B1		31
B2		82
CH	1	
D1		1
DA		1
E2		2
EWI		5
F1	13	140
F2		18
G1		2
G2	1	
G4		1
GT		1
H1		1
H-1		1
H1B		12
H4		7
IMM		1
J1		11
J1S	1	
J2		9

K3		1
L1		1
L2		1
M1		3
O1		1
PAR		6
RE		2
TPS		3
UN	31	400
UU		60
V1		1
WI		1
X		2
(blank)		179
<b>Grand Total</b>	<b>49</b>	<b>1,039</b>

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Office of the Director* (MS 2000)  
Washington, DC 20529-2000



U.S. Citizenship  
and Immigration  
Services

August 30, 2017

## DECISION

### MEMORANDUM FOR THE SECRETARY

FROM:

James W. McCament  
Acting Director

A handwritten signature in black ink, appearing to read "James W. McCament".

SUBJECT:

**Sudan's Designation for Temporary Protected Status**

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**Purpose:** Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires (i.e., by September 1, 2017, for Sudan), the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the conditions in Sudan and is presenting options for your consideration. As of the date of this memorandum, DOS' assessment and recommendation are under review by Secretary Tillerson's office.

**Background:** On November 4, 1997, the Attorney General designated Sudan for TPS due to ongoing armed conflict and extraordinary and temporary conditions in Sudan.<sup>2</sup> Sudan's designation has been continuously extended on these same grounds since the initial designation in 1997. Sudan has also been redesignated for TPS three times—in 1999,

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); see also Attachment A: Temporary Protected Status Legal Authority.

<sup>2</sup> See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997). See also INA § 244(b)(1)(A), (C).

INTERNAL PRE-DECISIONAL RECOMMENDATION

Sudan's Designation for Temporary Protected Status  
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2004, and 2013—modifying the eligibility requirements and permitting additional individuals to register for TPS.<sup>3</sup> To be eligible for TPS under Sudan's designation, along with meeting the other eligibility requirements, Sudanese nationals must have continuously resided in the United States since January 9, 2013, and have been continuously physically present in the United States since May 3, 2013.

Demographic Information on Sudanese TPS Beneficiaries

There are currently 1,039 Sudanese TPS beneficiaries,<sup>4</sup> 31 percent female and 69 percent male. They range in age at the time of approval from 3-79 years of age, with most in their 20s, 30s, or 40s. Fifty-three were 18 years of age or younger at the time of approval. Sudanese TPS beneficiaries live in nearly every state across the country, with New York, Texas, and Virginia hosting the largest populations with 100 or more Sudanese TPS beneficiaries each. The most commonly self-reported immigration statuses at the time of initial TPS application included visitors (113), students (178), and "unknowns" (460). Five reported their status as entering without inspection.<sup>5</sup>

Country Conditions

USCIS has conducted a thorough review of conditions in Sudan. The USCIS country conditions report can be found in Attachment B.

Since the last extension, armed conflict between government forces and opposition groups in certain parts of Sudan has continued, resulting in an ongoing lack of security and safety for civilians in those conflict-affected regions. 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 freedoms of religion and assembly with violent suppression of protests. In 2016, the government of Sudan undertook an aerial bombardment campaign that resulted in civilian casualties and leveled numerous villages. In May 2017, Sudanese officials demolished two Sudanese Church of Christ churches, which were the first on a list of 27 that authorities had earmarked for demolition in February.

<sup>3</sup> See Extension and Redesignation of Sudan under the Temporary Protected Status Program, 64 FR 61128 (Nov. 9, 1999); Extension and Redesignation of Temporary Protected Status for Sudan, 69 FR 60168 (Oct. 7, 2004); Extension and Redesignation of Sudan for Temporary Protected Status, 78 FR 1872 (Jan. 9, 2013).

<sup>4</sup> The total number of beneficiaries represents all individuals who have been granted TPS since Sudan's designation in 1997 and have not had their TPS withdrawn. Not all of these individuals continue to re-register because they have adjusted to another valid immigration status, have left the United States, are no longer eligible for TPS, or have failed to re-register for other reasons. As a result, the number of beneficiaries that USCIS expects to re-register for TPS is lower than the total number of beneficiaries. Based on statistics from the last re-registration period, USCIS estimates that approximately 370 re-registration applications will be filed if Sudan's designation for TPS is extended.

<sup>5</sup> The TPS statute does not require individuals to have lawful status in order to qualify for TPS. The TPS application form does request the applicant's status at the time of application, and this information is recorded in USCIS systems. However, the information is self-reported and not all applicants provide this information on the form in a standard or recordable fashion.

INTERNAL PRE-DECISIONAL RECOMMENDATION



Sudan's Designation for Temporary Protected Status  
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While ongoing armed conflict does not persist throughout the entire country, there is conflict in Darfur and the Two Areas (South Kordofan and Blue Nile states). As a result, hundreds of thousands of Sudanese have fled to neighboring countries. The majority of those displaced in previous years – currently around 2 million in Darfur and 230,000 in the Two Areas – have not yet been able to return to those areas of the country due to persistent insecurity. Over 100,000 Sudanese have been newly displaced since 2016.

The number of people currently in need of humanitarian assistance in Sudan is 4,800,000 (over 10 percent of the total population of 39.58 million as of 2016). Above-average harvests have moderately improved food security across much of Sudan. However, populations in conflict-affected areas continue to experience acute levels of food insecurity, with nearly 2,773,000 children suffering from acute or severe acute malnutrition. In addition to food insecurity, access to clean drinking water remains a challenge in Sudan, and, in August 2016, a cholera outbreak began that is currently affecting several states. At least 15,000 to 23,000 people have been infected, with an estimated 280 to 820 deaths. Despite some improvement in access for humanitarian actors to provide much-needed humanitarian aid, they remain unable to fully and consistently provide timely and impartial humanitarian access.

Women and children have been particularly affected by the conflict. Particularly in Darfur, sexual and gender-based violence remains a grave concern, and there are many documented incidents of children being killed and maimed. Children also face recruitment by both the government and armed groups.

Sudan has faced significant economic instability since the secession of South Sudan in 2011, characterized by much reduced economic growth and high inflation (estimated at 16.5 percent in July 2016). The labor market is underdeveloped, and much of the labor force is employed in the informal sector.

### Options

Your options include the following actions:

#### 1) *Extend Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, the TPS designation will be extended for an additional period of 6 months, or in your discretion, 12 or 18 months.

From an operational perspective, extension periods of less than 18 months for large numbers of aliens are challenging given the significant workload and timeframes involved

### INTERNAL PRE-DECISIONAL RECOMMENDATION

Sudan's Designation for Temporary Protected Status  
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in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Here, the number of individuals is relatively small. However, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation. Accordingly, a 12-month extension would generally be needed to provide sufficient time to restart and complete this deliberative review process. A 12-month extension of Sudan's designation for TPS would permit current Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through November 2, 2018.

2) *Redesignate Sudan for TPS*

If you determine the conditions for a designation extension have been met, you may also, in your discretion, re-designate Sudan for TPS. Historically, the act of re-designation of a country for TPS is used sparingly, usually in association with a significant deterioration of conditions since the most recent designation.

The act of re-designation would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include Sudanese nationals who began residing in the United States after the current continuous residence date of January 9, 2013. The USCIS review of the country conditions indicates no new or significant deterioration since Sudan's last designation in 2013, with modest improvements in some areas.

3) *Terminate Sudan's Designation for TPS*

If you determine that Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for Sudan. Termination would end TPS benefits for existing Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States.

If you decide to terminate Sudan's designation, you may determine the appropriate effective date of the termination. The effective date could be delayed to a time period subsequent to the date of the decision in order to provide for an orderly transition period (e.g., 6, 12, or 18 months), following which the TPS documentation will expire.

Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. See INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of

INTERNAL PRE-DECISIONAL RECOMMENDATION

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termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of Sudan's designation, providing predictability and clarity to beneficiaries and their employers. By statute, if you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Recommendation:** USCIS recommends termination, but to delay the effective date of the termination by 12 months to provide for an orderly transition for those recipients to return to Sudan. This recommendation is supported by the following factors:

1. There were unilateral ceasefires in October 2016 which led to a reduction in violence and rhetoric from the conflict parties.
2. President Obama, in an Executive Order (EO) just before leaving office, lifted sanctions on Sudan for six months. In this EO, he recognized Sudan's positive steps to improve (see EO from January 2017- <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13761.pdf>).
3. President Trump issued another EO to extend the sanction review for Sudan for 3 additional months, citing improved counterterrorism efforts and other progress to promote regional stability. See also State Department release: <https://www.state.gov/r/pa/prs/ps/2017/07/272539.htm>
4. There is ongoing conflict in some regions, but not the entire country.
  - a. As any ongoing armed conflict is limited to certain parts of Sudan, extraordinary and temporary conditions preventing the return of its nationals no longer exist.
  - b. As any ongoing armed conflict is limited to certain parts of Sudan, requiring Sudanese nationals to return to their country does not currently pose a serious threat to their personal safety.
5. Many migrants and refugees from South Sudan have arrived in Sudan and are being supported. Nearly 152,000 have arrived this year. <https://www.unocha.org/story/hope-south-sudanese-refugees-arriving-darfur>
6. Humanitarian assistance has seemingly improved: [http://reliefweb.int/sites/reliefweb.int/files/resources/Sudan\\_Humanitarian\\_Dashboard\\_A4\\_%28Jan\\_-\\_Dec\\_2016%29.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Sudan_Humanitarian_Dashboard_A4_%28Jan_-_Dec_2016%29.pdf)

<sup>6</sup> See INA § 244(b)(3)(A).

<sup>7</sup> See INA § 244(b)(3)(A), (C).

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## Sudan's Designation for Temporary Protected Status

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7. The unemployment rate has decreased; the GDP growth rate is up.  
[https://theodora.com/wfbcurrent/sudan/sudan\\_economy.html](https://theodora.com/wfbcurrent/sudan/sudan_economy.html)
8. According to the African Development Bank Group, the economy is projected to improve: Economic growth slowed in 2016 to an estimated 3% as a result of the decline in oil production and macroeconomic imbalances and is projected at 3.4% in 2017 and 3.6% in 2018 on the back of improved performance in the non-oil sector and temporary lifting of US sanctions.
9. The UK only advises against all travel or all but essential travel to certain parts of Sudan. <https://www.gov.uk/foreign-travel-advice/sudan>.
10. Secretary Tillerson did not make a recommendation for Sudan.

**Decision:** You may choose to extend, extend and redesignate, or terminate Sudan's TPS designation.

1. Extend: Extend Sudan's designation for TPS for (circle one):

*6 months**12 months**18 months*

Approve/date \_\_\_\_\_

2. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate Sudan for TPS for (circle one):

*6 months**12 months**18 months*

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

*6 months**12 months**18 months**Other* \_\_\_\_\_

Approve/date \_\_\_\_\_

Attachments:

INTERNAL PRE-DECISIONAL RECOMMENDATION



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Attachment A: Temporary Protected Status Legal Authority  
Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan  
Attachment C: Demographic Data

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Attachment A: Temporary Protected Status Legal Authority  
Attachment B: March 2017 USCIS RAIO Research Unit Report on Conditions in Sudan  
Attachment C: Demographic Data

**INTERNAL PRE-DECISIONAL RECOMMENDATION**

THE DEPUTY SECRETARY OF STATE  
WASHINGTON

September 1, 2017

The Honorable  
Elaine C. Duke  
Acting Secretary of the Department of Homeland Security  
Washington, DC 20528

Dear Acting Secretary Duke:

As conditions in Sudan prevent its nationals and habitual residents from returning in safety, I recommend that you extend the Temporary Protected Status (TPS) designation for Sudan when the current designation expires on November 2, 2017, for a period of six months due to ongoing armed conflict and extraordinary and temporary conditions in the country. To help inform your decision, the Department of State has prepared the enclosed Country Conditions Report, which finds that the conditions that served as the basis for the previous extension effective May 3, 2016, continue to exist.

While we have engaged the government of Sudan since June 2016 under the Five Track Engagement Plan to take positive steps in several key areas, including maintaining a unilateral cessation of hostilities, armed conflict in Sudan continues. In Darfur, while fighting between government forces and the armed opposition largely ceased in September 2016 – a partial outcome of Five Track engagement – intertribal armed conflict and actions by armed militias continue to generate insecurity. In 2016, armed conflict displaced 97,500 people in Darfur and 3,026 people in the “Two Areas” (South Kordofan and Blue Nile states). In 2017, international organizations reported 7,600 newly displaced persons in North Darfur and potentially new, although unverified, displacements in South Darfur and West Kordofan states. In March, the UN Office for the Coordination of Humanitarian Affairs reported that in the government-controlled areas of South and West Kordofan, 4,139 and 2,764 people were displaced, respectively. The majority of those displaced over the past fourteen years – currently around 2 million in Darfur since 2003 and 230,000 in the Two Areas since 2011 – have not yet returned home due to persistent insecurity.

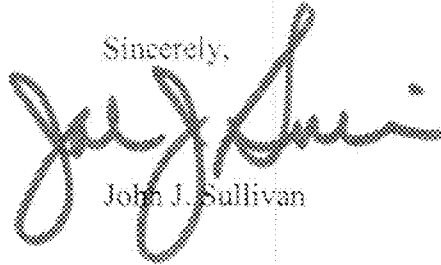
The extraordinary and temporary conditions that served as a basis for the previous extension of Sudan’s TPS designation also continue to exist. Pre-dating and apart from the Five Track plan, the United States has pressed Sudan to improve its human rights record. Despite this effort, Sudan’s overall human rights and religious freedom records remain extremely poor. The government continues to violently suppress protests and abuse members of certain populations, including activists, youth, journalists, and those belonging to, or perceived as belonging to, political opposition groups. Although drought and flooding that occurred in 2016 no longer prevent Sudan from adequately supporting the return of its nationals, populations in some conflict-affected areas continue to experience acute levels of food insecurity. One of the overarching goals in our bilateral relationship through the Five Track process with Sudan, and beyond, remains achieving sufficient progress in key areas (including internal peace and respect for human and religious rights) that would allow for an end to TPS status for Sudan. Even if

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there is a decision to revoke certain sanctions against Sudan through the Five Tracks, conditions that merit extension of TPS will continue.

For these reasons, I recommend that you extend by six months the TPS designation for Sudan when the current designation expires on November 2, 2017. A six-month extension will allow for a timely review should conditions change given our ongoing efforts to improve relations with and conditions in Sudan.

Sincerely,

A handwritten signature in dark ink, appearing to read "John J. Sullivan". The signature is fluid and cursive, with a large initial "J" and "S".

John J. Sullivan

Enclosure



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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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Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

*Attorney-Client Privileged Communication*

MEMORANDUM FOR THE ACTING SECRETARY

AUG 31 2017

THROUGH:

Claire Grady [REDACTED]  
Performing the duties of DEPUTY SECRETARY

FROM:

Joseph B. Maher [REDACTED]  
ACTING GENERAL COUNSEL

Christina E. McDonald [REDACTED]  
ASSOCIATE GENERAL COUNSEL FOR  
REGULATORY AFFAIRS

SUBJECT:

Sudan's Designation for Temporary Protected Status

[REDACTED]

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**Sudan's Designation for Temporary Protected Status**

Decision: You may choose to extend and redesignate, simply extend, or terminate Sudan's TPS designation

1. Extend and Redesignate: Extend Sudan's designation for TPS and simultaneously redesignate South Sudan for TPS for (circle one):

6 months

12 months

18 months

Approve/date \_\_\_\_\_

2. Extend: Extend Sudan's designation for TPS for (circle one):

6 months

12 months

18 months

Approve/date \_\_\_\_\_

3. Terminate: Terminate Sudan's designation for TPS with an orderly transition period of (circle one):

6 months

12 months

18 months

Other \_\_\_\_\_

Approve/date \_\_\_\_\_

*ESL* 9/1/2017

### Attachment A - Temporary Protected Status (TPS) Legal Authority

Pursuant to section 244(b)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a(h)(1), the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, may designate a foreign State (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State).

At least 60 days before the expiration of a TPS designation, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign State designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension of the TPS designation. *See* INA § 244(b)(3)(A)-(C); 8 U.S.C. § 1254a(b)(3)(A)-(C). If the Secretary determines that the foreign State no longer meets the conditions for the TPS designation, he or she must terminate the designation. *See* INA § 244(b)(3)(B); 8 U.S.C. § 1254a(b)(3)(B). Although the Secretary must make the determination on extension or termination at least 60 days before the expiration of the TPS designation, publication of the required *Federal Register* notice announcing the decision must be "on a timely basis." *See* INA § 244(b)(3)(A), 8 U.S.C. § 1254a(b)(3)(A). There is also an automatic, minimum six-month extension of a country's TPS designation if the Secretary does not make a decision under INA § 244(b)(3)(A); 8 U.S.C. § 1254a(b)(3)(A) that the foreign state no longer meets the conditions for designation. *See* INA § 244(b)(3)(C); 8 U.S.C. § 1254a(b)(3)(C).

After the Secretary designates a country for TPS, nationals of the country (and persons without nationality who last habitually resided in the country) may apply for TPS, but they must individually demonstrate their eligibility pursuant to the criteria established in INA § 244(c); 8 U.S.C. § 1254a(c), and the TPS regulations at 8 C.F.R. part § 244. These criteria include, but are not limited to, requirements that the applicant show continuous physical presence in the United States since the effective date of the country designation and continuous residence since such date as the Secretary determines; admissibility as an immigrant (with limited exceptions); that the applicant is not ineligible under certain mandatory criminal history, terrorism, and national security bars as specified in INA § 244(c)(2)(A-B); 8 U.S.C. § 1254a(c)(2)(A)-(B), and that the applicant is registering for TPS in accordance with regulatory procedures in 8 C.F.R. §§ 244.2 – 244.9.

If granted TPS, the individual receives employment authorization and an Employment Authorization Document, if requested, that is valid for the period that he or she holds TPS. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. When a TPS country designation ends, TPS beneficiaries maintain the same immigration status, if any, that they held prior to TPS (unless that status has expired or been terminated) or any other status they may have acquired while registered for TPS.





### Attachment A - Temporary Protected Status (TPS) Legal Authority

Pursuant to section 244(b)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a(b)(1), the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies of the Government, may designate a foreign State (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State).

At least 60 days before the expiration of a TPS designation, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign State designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension of the TPS designation. See INA § 244(b)(3)(A); 8 U.S.C. § 1254a(b)(3)(A)-(C). If the Secretary determines that the foreign State no longer meets the conditions for the TPS designation, he must terminate the designation. See INA § 244(b)(3)(B); 8 U.S.C. § 1254a(b)(3)(B). Although the Secretary must make his determination on extension or termination at least 60 days before the expiration of the TPS designation, publication of the required *Federal Register* notice announcing his decision must be "on a timely basis." See INA § 244(h)(3)(A). There is also an automatic, minimum six-month extension of a country's TPS designation if the Secretary does not make a decision under INA § 244(b)(3)(A); 8 U.S.C. § 1254a(b)(3)(A) that the foreign state no longer meets the conditions for designation. See INA § 244(b)(3)(C); 8 U.S.C. § 1254a(b)(3)(C).

After the Secretary designates a country for TPS, nationals of the country (and persons without nationality who last habitually resided in the country) may apply for TPS, but they must individually demonstrate their eligibility pursuant to the criteria established in INA § 244(c) and the TPS regulations at 8 C.F.R. § 244.1 *et seq*. These criteria include, but are not limited to, requirements that the applicant show continuous physical presence in the United States since the effective date of the country designation and continuous residence since such date as the Secretary determines; admissibility as an immigrant (with limited exceptions); that the applicant is not ineligible under certain mandatory criminal history, terrorism, and national security bars as specified in INA § 244(c)(2)(A-B); and that the applicant is registering for TPS in accordance with regulatory procedures in 8 C.F.R. §§ 244.2 – 244.9.

If granted TPS, the individual receives employment authorization and an Employment Authorization Document, if requested, that is valid for the period that he or she holds TPS. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. When a TPS country designation ends, TPS beneficiaries maintain the same immigration status, if any, that they held prior to TPS (unless that status has expired or been terminated) or any other status they may have acquired while registered for TPS.





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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CRISTA RAMOS, *et al.*,

Plaintiffs,

v.

KIRSTJEN NIELSEN, *et al.*,

Defendants.

Case No. 3:18-cv-01554-EMC

**ADMINISTRATIVE RECORD**

ADMINISTRATIVE RECORD

No. 3:18-cv-1554

1 I, David J. Palmer, Chief of Staff, Office of the General Counsel at the United  
2 States Department of Homeland Security, certify that the attached is a true, correct and  
3 complete copy of the updated Administrative Record pertaining to the Acting Secretary  
4 Duke's decision to terminate the Temporary Protected Status for Sudan.

5  
6 Dated: September 5, 2018

7 Respectfully submitted,

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9 

10 David J. Palmer  
11 Chief of Staff, Office of the General Counsel  
12 Department of Homeland Security  
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ADMINISTRATIVE RECORD

No. 3:18-cv-1554