# DARFUR: A NEGOTIATION SIMULATION ON DISPLACED PERSONS, SECURITY, AND POWER SHARING

**Government of Sudan**
**Briefing Packet**

**Prepared by the**

**Public International Law & Policy Group**

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# DARFUR: A NEGOTIATION SIMULATION ON DISPLACED PERSONS, SECURITY AND POWER SHARING

## Introduction

The purpose of this negotiation simulation is to surface key issues and potential solutions to points of impasse likely to arise during negotiations between the Government of Sudan and the Darfuri delegation on issues related to displaced persons, security, and power sharing. It is important to note that the objective of the simulation is not to reach consensus on the precise nature of the peace process or to agree upon specific conditions for negotiations. Rather, this negotiation simulation is designed to stimulate debate, address points of conflict, and identify potential solutions. The negotiation simulation has been developed using the methodology employed by the United States Department of State's National Foreign Affairs Training Institute, which runs similar negotiations to train US diplomats prior to negotiations.

This simulation exercise is not intended to be a comprehensive review of all the issues involved, nor is it intended to endorse one view over the other. The participants in the simulation naturally will have varying levels of substantive or area expertise, as well as professional commitment to the issue. Participants are therefore encouraged to draw upon their individual experience as they deem appropriate.

To provide the necessary information to conduct the simulation, this briefing packet contains an overview of the principal interests of the parties to the conflict, the relevant issues to be negotiated, and instructions for the delegations. Participants are divided into three delegations: the Government of Sudan, the Darfuri delegation, and the international mediators. Each delegation is provided only their own instructions. The simulation will proceed along a structured agenda provided in Annex I. Annex II provides links to additional sources of information and state practice examples for each of the three issues addressed in this simulation.

The negotiation simulation has been prepared by the Public International Law & Policy Group (PILPG), in cooperation with the Washington College of Law. PILPG, a 2005 Nobel Peace Prize nominee, is a non-profit organization, which operates as a global pro bono law firm providing free legal assistance to states and governments involved in peace negotiations, drafting post-conflict constitutions, and prosecuting war criminals. To facilitate the utilization of this

legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution. To date, PILPG has advised over two-dozen countries on the legal aspects of peace negotiations and constitution drafting, and over thirty countries in Europe, Asia and Africa concerning the protection of human rights, self-determination, and the prosecution of war crimes.

## Context

This negotiation simulation assumes the parties have agreed on a neutral location and the agenda for this negotiation simulation. Each delegation may determine negotiation strategies and secondary issues for discussion. Delegations may communicate with other delegations—or individuals from other delegations—in written messages or tactical meetings arranged by the delegations at any time during the simulation.

## The Parties

For the purposes of this negotiation simulation, the primary parties to the negotiation are the Government of Sudan (including representatives from the National Congress Party and the Sudan People's Liberation Movement), the Darfuri delegation (including representatives from the Justice and Equality Movement, the Sudan Liberation Army, other Darfuri movements, and civil society), and the international mediators (including representatives from the United States and the African Union/ United Nations).[1]

### *Government of Sudan*

The main objectives of the Government of Sudan are to protect its sovereignty and territorial integrity, maintain a unified Sudan, increase its stature within the international community, and avoid any action that creates the appearance of weakness or might have a destabilizing effect in Sudan. The Government of Sudan also intends to maintain sufficient control over Darfur, both in respect to security and development in the region.

### *Darfuri Delegation*

The main objectives of the Darfuri delegation are to end the ongoing violence against civilians in Darfur, ensure peace and stability in both the short and

[1] The inclusion or exclusion of any group on a delegation is not intended to endorse a particular scenario.

long term, facilitate adequate and unhindered humanitarian aid, promote the long-term sustainable development of Darfur, and establish conditions for the safe and voluntary return of displaced persons to their homes. The Darfuri delegation is also interested in gaining fair and equitable representation in the central government while strengthening the autonomy of the region.

*International Mediators*

The main objective of the international mediators is to facilitate an agreement between the Government of Sudan and the Darfuri delegation on the issues of displaced persons, security, and power sharing. While the international mediators agree that international oversight is necessary to ensure the resolution of these three issues, each state or organization represented by the international mediators is hesitant to act as the primary group responsible for providing additional troops or funding.

## Identification of the Issues

*Displaced Persons*

While there is disagreement over the exact figures, reports estimate that, as a result of the conflict in Darfur, approximately 2.4 million Darfuris have been internally displaced and 250,000 Darfuri refugees are living in refugee camps in Chad. Reports also indicate that humanitarian agencies have encountered reduced access to displaced populations as a result of increased insecurity, targeted attacks, and bureaucratic impediments.

Right of Return: The Guiding Principles on Internal Displacement recognizes the right to informed, voluntary return. Forced repatriation is inconsistent with this right as long as the conditions causing displacement still exist. State practice indicates that providing displaced persons with information about the conditions in the areas of their pre-conflict homes helps to encourage voluntary return. Post-conflict states have also cooperated with international humanitarian agencies to facilitate "go-and-see visits," which allow displaced persons to assess the security situations in their former communities and make informed, voluntary decisions to return.

Property Restitution: The Universal Declaration of Human Rights guarantees the right to property and home. Property concerns are a significant obstacle to the return of displaced persons. To address property rights and

restitution, peace agreements usually provide for the right to property restitution, including the physical return of property or financial compensation in situations where physical return is not a viable option. Many post-conflict states have passed legislation or included provisions in peace agreements creating mechanisms to adjudicate property restitution claims. State practice indicates that one of the most difficult property restitution issues is the consideration of secondary occupants. Secondary occupants often have destroyed or stolen the property of displaced persons. Regardless of past actions, however, the Pinheiro Principles emphasize that secondary occupants should be afforded safeguards of due process, including an opportunity for genuine consultation, adequate and reasonable notice of eviction, and the provision of legal remedies.

Humanitarian Assistance: Parties to a peace agreement often facilitate the return and resettlement of displaced persons by explicitly invoking international laws governing refugees and internally displaced persons (IDPs) in a peace agreement. To manage humanitarian assistance to displaced persons, states emerging from conflict situations often cooperate with the international community. The state agrees to ensure the security of international organizations, and in return these international organizations provide repatriation assistance, including aid and trans-border transportation to return displaced persons.

Resettlement: To successfully facilitate the return of displaced persons, resettlement plans generally encompass humanitarian, economic, and security concerns. Parties to a peace agreement often seek assistance from the international community to help fund and implement resettlement programs. The international community may be able to provide more funding and better oversight for repatriation programs than if states attempt to implement the programs on their own.

For additional information and state practice examples on the issue of displaced persons, please see Appendix II.

*Security*

While the figures are contested, reports estimate that between 300,000 and 400,000 people have died as a result of the conflict in Darfur. Nonetheless, the security situation in Darfur is unstable, and this volatile environment jeopardizes the lives of civilians and undermines the future success of peace negotiations. Some of the major security concerns include the continued proliferation of arms and the increasing number of banditry attacks.

Ceasefire: A ceasefire is an agreement for the temporary cessation of hostilities. While ceasefires generally do not resolve the larger conflict, they create a secure environment to initiate dialogue between the conflicting parties and pave the way for future negotiation. Common elements of a ceasefire agreement include: (1) identification and definition of prohibited acts; (2) separation of forces; and (3) verification, supervision, and monitoring of the agreement. Previous ceasefire agreements have also established ceasefire or joint military commissions consisting of an international peace keeping force, a domestic force to self-monitor the ceasefire, or a joint force consisting of both international and domestic organizations.

Demobilization, Disarmament, and Reintegration (DDR): Demobilization, disarmament, and reintegration programs serve to (1) remove troops from offensive positions, (2) encourage non-governmental forces to place their weapons in storage and under the supervision of a neutral body, and (3) provide civil society transition programs. Many post-conflict states choose to integrate former combatants into provincial or national defense forces because of their experience using military equipment, working in military groups, and executing orders. The ultimate objective of DDR programs is to create a secure and stable environment conducive to lasting and sustainable peace.

Civilian Security: A lack of security and safety can prevent the return of displaced persons to their areas of origin. Displaced persons may be in danger both during the process of return and after resettlement. Peace agreements frequently address these concerns by establishing each party's affirmative obligation to ensure the safety and security of affected populations during times of return and reintegration. The international community may also be able to provide various services to ensure civilian security, including financial support, technical assistance, and neutral monitors.

For additional information and state practice examples on the issue of security, please see Appendix II.

*Power Sharing*

Under the Comprehensive Peace Agreement (CPA) and the Interim National Constitution (INC) of 2005, Sudan has a federal system of government consisting of the central government, the Government of Southern Sudan, provincial governments, and local governments. The CPA and INC allocate 52% of Executive positions and seats in the National Assembly to the National Congress

Party (NCP) and 28% to the Sudan People's Liberation Movement/Army (SPLM/A). Other Northern political organizations receive 14% of these seats while other Southern political organizations receive 6%. The perception that NCP political and economic policies marginalize populations within Darfur, and the attendant desire for greater political autonomy and share in national wealth contribute to the crisis in Darfur.

Central Government: Provincial governments often have a formal role in the executive or legislative branch of the central government. In the executive, this frequently takes the form of a representative from the provincial executive serving in the national executive. In the legislature, this often takes the form of representatives elected by the provincial citizens or appointed by legislative authorities to sit in the national legislature. Representation in the central government is typically based on precedent and/or population size.

Devolution of Powers: In post-conflict states, state practice indicates that a clear division of powers helps prevent future disputes over political authority. Common elements that states consider when devolving power include: (1) the structure and organization of the allocation of power; (2) the fiscal relationship between the central and provincial governments; (3) judicial review and dispute resolution relating to the allocation of powers; (4) mechanisms for coordination between the central and provincial governments, among provincial governments themselves, and between provinces and other entities; and (5) methods for the modification of structures once they have been established. Powers devolved to provinces frequently include taxation, transportation, police powers, and matters related to education, family life, health, and social welfare. Generally, expenditure authority follows the devolution of political authority between state and provincial governments.

For additional information and state practice examples on the issue of power sharing, please see Appendix II.

## DELEGATION INSTRUCTIONS

## For the Government of Sudan Only

You are a member of the Government of Sudan. For purposes of this negotiation simulation, the following are your delegation's positions with respect to displaced persons, security, and power sharing.

### Issue One: Displaced Persons

Right of Return

- Your delegation's position is that displaced persons should have the opportunity to return to their places of origin. However, your delegation does not think that they should be allowed to return until the necessary reconstruction efforts are complete in Darfur.

- Though your delegation does not oppose the return of displaced persons, your delegation does not want to lose any authority to international monitors in the return effort. Therefore, your delegation seeks absolute oversight of the return of displaced persons without international monitors.

- Your delegation requests funding from the international community for the return effort. Furthermore, your delegation believes Darfuri rebels were the root cause of the conflict, and accordingly does not feel obligated to fund the return of the displaced Darfuris.

Property Restitution

- Although your delegation does not necessarily support the establishment of a system for addressing property restitution claims, your delegation recognizes that this will likely be inevitable given the large number of displaced persons. Accordingly, because the Government of Sudan does not want to lose any authority during the property restitution process, your delegation's position is that the Government of Sudan should control and process all Darfuri restitution claims to houses, land, and/or property and determine the validity of these claims.

- Your delegation believes that the Government of Sudan should have the authority to remove any secondary occupants, as it deems necessary. Therefore, your delegation opposes international monitors in this process.

- Your delegation's position is that the Government of Sudan should have the sole authority to determine when it is necessary to rebuild or provide compensation for any housing, land, and/or property that cannot be returned or restored to its original condition. In such instances, the Government of Sudan will seek funding from the international community.

Humanitarian Assistance

- Your delegation's position is that humanitarian aid groups registered with the Government of Sudan should have access to civilians in Darfur. Your delegation believes that other international organizations and NGOs should have to negotiate with the Government of Sudan for the right to operate within Sudan.

- Your delegation seeks to maintain control over the protection and monitoring of supply routes for humanitarian aid at the exclusion of international monitors.

Resettlement

- Your delegation's position is that funding for resettlement efforts should come from the international community, and that reconstruction should take place under the supervision of the Government of Sudan.

- The reconstruction efforts present an opportunity to create many jobs for Sudanese workers. Therefore, your delegation supports the use of Sudanese government contractors and Sudanese workers to manage and conduct the reconstruction efforts in Darfur.

**Issue Two: Security**

Ceasefire

- Your delegation supports an immediate cessation of all hostilities and military action.

- Your delegation's position is that, following a ceasefire agreement, the Sudan Armed Forces should have the sole authority to ensure that the cessation of military hostilities is enforced, both immediately and in the long term. Therefore, your delegation strongly opposes international armed forces or monitors within Darfur and Sudan.

Disarmament, Demobilization, and Reintegration (DDR)

- Your delegation's position is that there is no right of Darfuris to carry weapons. Your delegation supports the creation of disarmament programs for the Darfur Movements.

- The immediate demobilization of all combatants in Darfur is one of your delegation's main objectives. While your delegation seeks to reintegrate most of the Darfuri Movements' forces into society, your delegation may negotiate for a limited number of forces to join the Sudan Armed Forces.

- Your delegation does not support the demobilization of the Sudan Armed Forces (SAF). Your delegation feels strongly that, as the Sudan's national army, SAF should provide security for Darfur.

- Your delegation seeks assurances that, when the DDR programs begin, the SAF will have the sole responsibility to oversee and carry out all the programs in Darfur, as international involvement would infringe on Sudan's sovereignty.

- In the interest of maintaining internal DDR programs, the Government of Sudan is willing to provide all financial and logistical support for DDR programs through the National Reserve Fund (NRF), provided that the Sudan Armed Forces have the authority to carry out such programs.

- Your delegation does not believe they are responsible for the disarmament, demobilization, or reintegration of the Janjaweed Militia.

Civilian Security

- Your delegation's position is that the Government of Sudan, without international assistance, should ensure that civilians in IDP camps are protected. Furthermore, your delegation will only allow those humanitarian

agencies registered with the Government of Sudan to reach civilians in Darfur who are in need.

- Your delegation's position is that the Government of Sudan should be the only entity responsible for providing security along humanitarian supply routes. Your delegation opposes the use of any supply routes that the Government of Sudan has not designated and approved.

- Your delegation also seeks the deployment of additional Sudan Armed Forces to provide security in and around the IDP camps.

- Your delegation's position is that Darfur's borders should be patrolled only by the Sudan Armed Forces, and not by a regional security force for Darfur.

- Your delegation's position is that the Government of Sudan should ensure adherence to these measures without international oversight.

**Issue Three: Power Sharing**

Establishment of Region

- Your delegation opposes the creation of a distinct region called Darfur. The establishment of a Darfur region could empower Darfuris to seek greater autonomy, which would threaten the sovereignty of Sudan.

- Accordingly, your delegation would like to maintain the current division of Darfur into three distinct provinces – North Darfur, South Darfur, and West Darfur.

Central Government

- Your delegation supports the Comprehensive Peace Agreement (CPA) between the Government of Sudan and the SPLM/A, which does not provide for the involvement of Darfuris in the National Government of Sudan. Your delegation views the CPA as the backdrop to all future negotiations, including those with Darfur. Your delegation may seek to raise the CPA in these negotiations and rely on its established provisions that do not include Darfuri representation.

Devolution of Power

- Darfur's abundant natural resources are an important part of Sudan's economy and your delegation strongly opposes granting Darfuris authority to independently control the wealth generated from these resources. However, your delegation may use the authority to extract and produce natural resources as a negotiation tool.

# Annex I: Agenda

## DARFUR: A NEGOTIATION SIMULATION ON DISPLACED PERSONS, SECURITY AND POWER SHARING

**9:00 – 9:30** **Registration and Coffee**

**9:30 – 9:45** **Welcome and Introductory Remarks**
*Sara K. Andrews, International Pro Bono Counsel, DLA Piper*
*Paul Williams, Executive Director, PILPG*
*Matthew T. Simpson, Darfur Project Director, PILPG*

**9:45 – 10:20** **Individual Delegation Meetings**
*Discuss negotiation strategy on issues of displaced persons, security and power sharing*
- **Government of Sudan**
- **Darfuri Delegation**
- **International Mediators**

**10:20 – 10:55** **Bilateral Meetings**
- **Government of Sudan / Mediators (A)**
- **Darfuri Delegation / Mediators (B)**

**10:55 – 11:10** **Coffee Break**

**11:10 - 11:45** **Working Group Meetings**
**Mediated by Internationals**
- **Displaced Persons**
- **Security**
- **Power Sharing**

**11:45 – 12:05** **Working Lunch**
**Individual Delegation Meetings**
*Assess strategy and develop action plan*
- **Government of Sudan**
- **Darfuri Delegation**
- **International Mediators**

**12:05 – 12:40** **Working Group Meetings**
**Mediated by Internationals**
- **Displaced Persons**
- **Security**
- **Power Sharing**

**12:40 – 1:15** **Final Plenary Session with all Parties**

**1:15 – 1:45** **Lessons Learned and Concluding Remarks**

# Annex II: Resource Materials

## ***General Documents***

*Darfur Peace Agreement* (Government of Sudan, Sudan Liberation Movement/Army-Minnawi) (2006), *available at* http://allafrica.com/peaceafrica/resources/view/00010926.pdf

INTERIM NATIONAL CONST (2005), *available at* http://www.sudan-embassy.de/c_Sudan.pdf

*Comprehensive Peace Agreement* (Government of Sudan, Sudan People's Liberation Movement/Army) (2005), *available at* http://unmis.unmissions.org/Portals/UNMIS/Documents/General/cpa-en.pdf

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*Humanitarian Ceasefire Agreement on the Conflict in Darfur* (N'djamena, Chad) (April 2004), *available at* http://protection.unsudanig.org/data/darfur/DPA/DPA%20Annex%201%20-%20Humanitarian%20Ceasefire.pdf

*Protocol on the Establishment of Humanitarian Assistance in Darfur* (N'dajema Chad) (April 2004), *available at* http://www.issafrica.org/AF/profiles/sudan/humanprot.pdf

*Agreement of Goodwill and Confidence Building for the Settlement of the Problem in Darfur* (Government of Sudan, Justice and Equality Movement) (Feb. 2009), *available at* http://www.enoughproject.org/files/pdf/Problem-In-Darfur.pdf

*Agreement with the Sudanese Parties on the Modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers in Darfur* (Addis Ababa, Ethiopia) (May 2004), *available at* http://www.issafrica.org/AF/profiles/sudan/darfur/cfc/agreement.pdf

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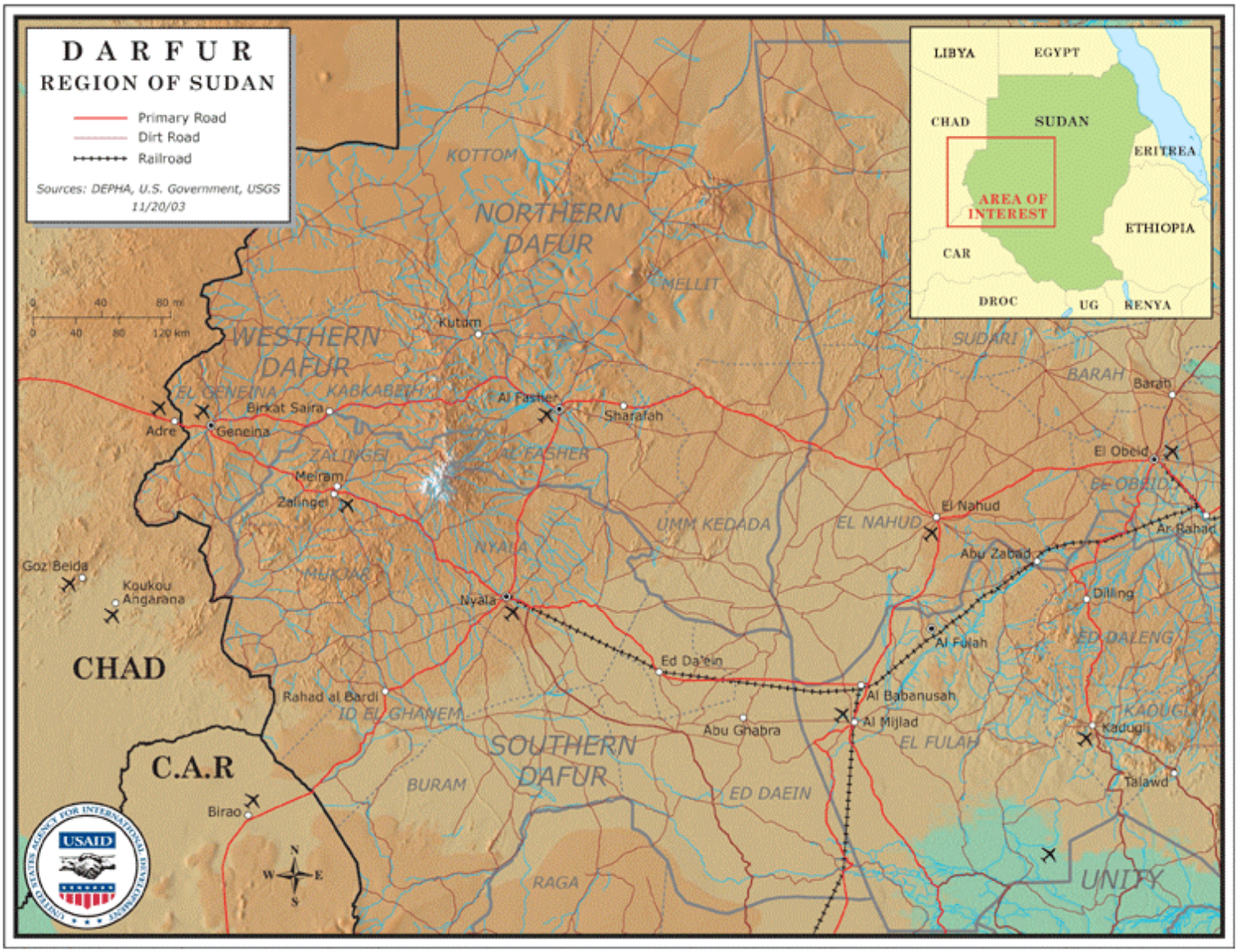
## *Map of Sudan*

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
SUDAN
EGYPT
Lake Nasser
SAUDI ARABIA
RED SEA
Administrative boundary
Halaib
Wadi Halfa
Selima Oasis
Semna West
Lake Nubia
Kumma
Salala
Muhammad Qol
Nubian Desert
NORTHERN Desert
Laqiya Arba'in
Kerma
Abu Hamed
Port Sudan
Suakin
Nukheila
Dongola
Karima
Merowe
RIVER NILE
RED SEA
Tokar
Haiya
Karora
El'Atrun
Old Dongola
Jebel Abyad Plateau
Jebel Nagashush
Wadi el Milk
Ed Damer
Atbara
Gadamai
Meroë
Shendi
Wadi Howar
CHAD
ERITREA
NORTHERN DARFUR
Abu 'Uruq
Omdurman
Khartoum
KHARTOUM
KASSALA
Halfa al Gadida
Kassala
Asmara
Miski
NORTHERN KORDOFAN
GEZIRA
Wad Medani
Umm Badr
Sodiri
Gedaref
GEDAREF
Geneina
Al Fasher
El Obeid
Sinnar
Tekezé
WESTERN DARFUR
Kosti
En Nahud
WHITE NILE
SINNAR
Gonder
Nyala
WESTERN KORDOFAN
Abu Zabad
SOUTHERN KORDOFAN
Renk
Ed Damazin
Ed Da'ein
Al Fula
Nuba Mts.
BLUE NILE
Tullus
Buram
Muglad
Kadugli
Kologi
Talodi
Famaka
SOUTHERN DARFUR
Radom
Bahr el'Arab
Paloich
Abyei
UPPER NILE
Malakal
UNITY
ETHIOPIA
CENTRAL AFRICAN REPUBLIC
Kafia Kingi
NORTHERN BAHR
Bentiu
Kigille
Ādīs Ābeba (Addis Ababa)
WESTERN BAHR
Aweil
Raga
AL GHAZAL
WARAB
Fathai
Akobo
Wau
AL GHAZAL
JONGLI
Rumbek
LAKES
Ukwaa
Towot
Bor
Administrative boundary
Li Yubu
Amadi
EQUATORIA
EASTERN EQUATORIA
Kapoeta
Yambio
Maridi
Juba
Torit
Ch'ew Bahir
BAHR AL JEBEL
Yei
Nagishot
DEMOCRATIC REPUBLIC OF THE CONGO
L. Turkana (L. Rudolf)
UGANDA
L. Albert
L. Salisbury
KENYA
L. Kyoga
SUDAN
International boundary
State boundary (approximate)
Road
Track
Railroad
National capital
Regional capital
Town
Airport
0 100 200 300 km
0 100 200 mi
Map No. 3707 Rev. 5 UNITED NATIONS
September 2000
Department of Public Information
Cartographic Section

## *Map of Darfur*