

Presidential Documents

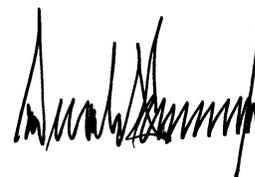
The President

Memorandum of October 26, 2020

Certification Pursuant to Section 6(E) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497), as Amended by the Darfur Peace and Accountability Act of 2006 (Public Law 109–344)

Pursuant to section 6(e) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497), as amended by the Darfur Peace and Accountability Act of 2006 (Public Law 109–344), I hereby certify that the Government of Sudan has taken demonstrable steps to: (A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance; (B) demobilize and disarm militias supported or created by the Government of Sudan; (C) allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region; (D) allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable; (E) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan; (F) permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence; and (G) implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004.

The Secretary of State is authorized and directed to publish this Certification in the *Federal Register*, along with the accompanying Memorandum of Justification.



THE WHITE HOUSE,
October 26, 2020.

Presidential Documents

MEMORANDUM OF JUSTIFICATION REGARDING THE PRESIDENT'S CERTIFICATION UNDER SECTION 6(E) OF THE COMPREHENSIVE PEACE IN SUDAN ACT OF 2004 (Pub.L. 108-497), AS AMENDED BY THE DARFUR PEACE AND ACCOUNTABILITY ACT OF 2006 (Pub.L. 109-344)

Pursuant to section 6(e) of the Comprehensive Peace in Sudan Act of 2004 (Pub.L. 108-497), as amended by the Darfur Peace and Accountability Act of 2006 (Pub.L. 109-344), the President has certified that the Government of Sudan has taken demonstrable steps in accordance with section 12(a)(2) of the Sudan Peace Act of 2002, as amended, (Pub.L. 107-245). While the Administration will continue to press for further progress, including with regard to human rights-related concerns involving the security services, the justification for this certification, set forth below, represents a series of demonstrable steps meeting the requirements of that provision.

The Government of Sudan, most recently under the leadership of the Civilian-Led Transitional Government (CLTG) has taken the following demonstrable steps, among others, to ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance:

- The CLTG, through the adoption of a Constitutional Declaration on August 17, 2019, has committed to respect and promote human rights and fundamental freedoms; address the root causes of conflict; establish accountability mechanisms for the security forces; and conduct security sector reform.
- The CLTG signed an agreement on September 25, 2019, with the Office of the UN High Commissioner for Human Rights to allow the opening of a UN Human Rights Office in Khartoum and field offices in Darfur, Blue Nile, Southern Kordofan, and East Sudan. The Khartoum office was subsequently opened.
- In September 2019, the Minister of Labor and Social Affairs instructed all Sudanese government entities to remove all restrictions on humanitarian access, including any pre-approval requirements for travel.

The Government of Sudan has taken the following demonstrable steps, among others, to demobilize and disarm militias supported or created by the Government of Sudan:

- On July 14, 2011, the Government of Sudan signed a protocol agreement committing itself to the terms of the Doha Document for Peace in Darfur, which included a commitment on the part of the government to disarm and disband all militia groups in Darfur.
- In accordance with the Doha Document for Peace in Darfur, the Government of Sudan worked with the United Nations—African Union Hybrid Operation in Darfur to demobilize over 10,000 former combatants from across Darfur.
- The Government of Sudan collaborated with the United Nations—African Union Hybrid Operation in Darfur in a region-wide arms collection campaign in 2018 in line with the Doha Document for Peace in Darfur.

- The Government of Sudan created the Rapid Support Forces (RSF)—a Government of Sudan security force—into which elements of former militias supported or created by the Government of Sudan were incorporated. In 2017, the Rapid Support Forces Act integrated the RSF into the Sudan Armed Forces. The Constitutional Declaration, signed in August 2019, declares the Sovereignty Council the Supreme Commander of the RSF and describes it and the Sudanese Armed Forces (SAF) as “national military institutions.”
- The Government of Sudan has ceased support to certain private militias, and we have no evidence of ongoing support.

The Government of Sudan has taken the following demonstrable steps, among others, to allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region:

- In September 2019, Prime Minister Abdalla Hamdok agreed with the United Nations that his government would ensure unfettered humanitarian access.
- The CLTG has issued directives to provide unfettered humanitarian access to all parts of Sudan. In October 2019, the Humanitarian Aid Commission informed the humanitarian community that all restrictions on humanitarian access had been lifted. The Humanitarian Aid Commission issued instructions to this effect to relevant local and provincial entities.
- Humanitarian groups report that these directives have had the net effect of easing significantly their access to many parts of Sudan, including in Darfur, and have allowed them to access areas of the country that were previously inaccessible to them.
- Prime Minister Hamdok worked with humanitarian agencies to obtain permission for the first cross-border deliveries of humanitarian assistance into armed opposition-held areas of South Kordofan.
- The CLTG has prioritized negotiation of humanitarian access in its ongoing discussions with armed opposition groups.

The Government of Sudan has taken the following demonstrable steps, among others, to allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable:

- The Government of Sudan facilitated the work of the International Commission of Inquiry on Darfur between November 2004 and January 2005, including through regular meetings with the Commission, permitting the Commission to travel and hold meetings in Khartoum and Darfur, and permitting the work of the Commission’s investigative team in Darfur from November 2004 to January 2005. The International Commission of Inquiry on Darfur presented its final report to the UN Secretary General on January 25, 2005.
- The CLTG, through the adoption of a Constitutional Declaration on August 17, 2019, has committed to holding accountable under the law those responsible for all crimes committed against the Sudanese people since 1989, and beginning the implementation of measures of transitional justice and accountability for war crimes and crimes against humanity, including bringing perpetrators before national and international courts under the principle of no impunity.

The Government of Sudan has taken the following demonstrable steps, among others, to cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan:

- The Government of Sudan engages regularly with the United Nations—African Union Hybrid Assistance Mission in Darfur (UNAMID) and is working to facilitate its operations.
- The CLTG is cooperating with the United Nations, the African Union, and the other stakeholders in the deployment of the UN Integrated Assistance Mission in Sudan, (UNITAMS), the follow-on UN Special Political Mission that will likely replace UNAMID.

The Government of Sudan has taken the following demonstrable steps, among others, to permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence:

- On July 14, 2011, the Government of Sudan signed a protocol agreement committing itself to the terms of the Doha Document for Peace in Darfur, which included a commitment on the part of the government to facilitate voluntary return of displaced persons and refugees to their homes, to restore their property, and to compensate them for any losses.
- The CLTG, through the adoption of a Constitutional Declaration on August 17, 2019, has committed to work to address the root causes of conflict and marginalization; to include as fundamental issues in peace negotiations with the armed opposition groups the compensation and return of property to victims, the reconstruction of areas affected by war, and the voluntary return and sustainable solutions for issues of IDPs and refugees; and to work to achieve comprehensive agreements with armed opposition groups.
- The Government of Sudan, the Government of Chad, and UNHCR signed two Tripartite Agreements in April 2018, the first of which establishes the modalities for the voluntary return of Chadian refugees in Sudan, and the second for the voluntary return of Sudanese refugees in Chad.
- The CLTG launched negotiations with armed opposition groups of the Sudan Revolutionary Front in October 2019 and has finalized seven of eight protocols of a final peace agreement and continues to work towards a comprehensive peace agreement with other armed opposition groups.
- According to a 2020 OCHA report, nearly 300,000 Sudanese refugees have returned to Sudan.

The Government of Sudan has taken the following demonstrable steps, among others, to implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004:

- The Government of Sudan signed a Comprehensive Peace Agreement (CPA) with the Sudan People's Liberation Movement/Army (SPLM/A) on January 9, 2005.
- The Government of Sudan formed the Government of National Unity in September 2005, followed by a January 2011 referendum, leading to the creation of the independent nation of South Sudan on July 9, 2011.