

TELECOMMUNICATION

Radio Transmitting Facilities

**Agreement between the
UNITED STATES OF AMERICA
and the SUDAN**

Signed at Khartoum July 12, 2006



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

SUDAN

Telecommunication: Radio Transmitting Facilities

*Agreement signed at Khartoum July 12, 2006;
Entered into force July 12, 2006.*

AGREEMENT

**BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA**

AND

THE GOVERNMENT OF THE REPUBLIC OF THE SUDAN

**FOR THE ESTABLISHMENT OF U.S. RADIO
TRANSMITTING FACILITIES IN SUDAN**

AGREEMENT

Between the Government of the United States of America and the Government of the Republic of the Sudan for the Establishment of U.S. Radio Transmitting Facilities in Sudan

The Government of the United States of America (hereinafter referred to as "the United States") and the Government of the Republic of the Sudan (hereinafter referred to as "Sudan") (collectively referred to as the "Parties"):

- Desiring to further their mutual interest in promoting international understanding and cooperation, and the exchange and dissemination of information through communication technologies;
- Having expressed their desire to cooperate in order to facilitate the purchase, installation, and operation and maintenance in Sudan of a radio transmitting facility in Khartoum and, at the option of the United States, in up to eleven (11) additional cities in Sudan permitting the broadcast of United States Government-funded frequency modulation (FM) broadcasts; and
- Recognizing that the purchase, installation, and operation and maintenance of such facilities require the conclusion of an agreement between the two Parties that may be supplemented as necessary by technical annexes on the various facets of this cooperation;

Have agreed as follows:

ARTICLE I

PURPOSE

In accordance with the terms of this Agreement, Sudan will construct, operate, and maintain a frequency modulation (FM) radio transmitting facility in Khartoum for the exclusive use of the United States and, at the option of the United States, in up to eleven (11) additional cities in Sudan intended for the transmission of United States Government-funded radio programs.

ARTICLE II

TECHNICAL COMPONENTS

As requested by the United States, the transmitting facility shall consist of:

One (1) FM transmitter and associated transmission equipment, including antenna arrays, satellite receive systems, electrical generators and all other related broadcast equipment that comprise a complete FM transmitting station;

Annex "A" contains a list of major items of required equipment and facilities.

ARTICLE III

LICENSING

In accordance with its domestic laws and regulations, Sudan, within 30 (thirty) days of the entry into force of this Agreement, shall grant the United States:

- a) All necessary FM broadcasting licenses required by this Agreement, to allow broadcasts from each site, 24 hours per day, each day of the year as the separate sites become available;
- b) The right to use a satellite communications system at the transmitting facility for program feeds; and
- c) The right to broadcast United States Government-funded programs in Arabic and other appropriate languages as further specified in Article IV below.

In recognition of Sudan's right to regulate telecommunications within its borders, the United States shall not utilize the facility for the purpose of trading or leasing broadcast time to any other country.

ARTICLE IV

PROGRAMMING CONTENT

The United States shall be solely responsible for the content of the United States Government-funded programs retransmitted by the broadcasting facility sites designated for its use. The United States funded programming will be "Radio Sawa." In the event "Radio Sawa" broadcasts are discontinued, the United States reserves the right to implement program/language changes with the prior written approval from Sudan.

The United States shall observe high standards of impartiality, decency, and it shall avoid causing offense to national and religious sensitivities.

The United States will be responsible for securing all necessary rights for the broadcast of its programs in the Sudan. In the event that royalties are claimed by any local performance rights society for music contained in such programming, the United States will be responsible for payment of such royalties. Sudan will refer any third party performance rights society claims to the United States for its review and disposition pursuant to applicable law.

The United States will defend and hold Sudan harmless against any action of the authors of, and contributors to its programs resulting from any broadcast of any program that the United States has a license to pursuant to the Agreement.

ARTICLE V

OPERATION AND MAINTENANCE

Each FM radio transmission facility shall be operated and maintained for the United States by the Sudan Radio and Television Corporation (SRTC), an entity of the Government of the Sudan. Such operation and maintenance shall be in accordance with the terms and conditions set forth in Annex "B" and in a separate FM operation and maintenance agreement between the Broadcasting Board of Governors (BBG) and the SRTC.

ARTICLE VI

ELECTRICAL POWER

Sudan shall ensure that reliable electric power is provided to all transmitting facilities from the Sudanese electric power grid and suitable backup power generators as required. All power costs shall be borne by Sudan.

ARTICLE VII

STATUS OF UNITED STATES CITIZENS

The United States may assign up to two United States officials to the Embassy of the United States of America Khartoum for the purpose of coordinating with SRTC the FM facilities. The assignment of any United States official under this Article shall be subject to the prior written consent of Sudan. Sudan shall accord such officials, including family members, the same status as is accorded administrative and technical personnel assigned to the Embassy of the United States. Such officials shall bear US Diplomatic passports and notification will be made to the Sudan Ministry of Foreign Affairs.

ARTICLE VIII

CONSIDERATION

As consideration for the services, rights, and privileges provided under this Agreement by Sudan (including, but not limited to, the installation of each facility, the right and privilege to broadcast from Sudan territory, the grant of the operating licenses, and the assignment of up to twelve (12) FM frequencies), the United States shall:

a) Pay an amount not to exceed \$600,000 (six hundred thousand) United States Dollars (USD) for the construction and installation of the FM transmitting facility in Khartoum in accordance with the terms and conditions described in this Agreement. An initial payment of \$100,000 (one hundred thousand) USD shall be made within 30 days of the signing of this Agreement, with the remaining payments to be made by mutual agreement of the Parties on the basis of the progress of the completion of the facility.

b) Pay an annual fee of \$80,000 (eighty thousand) USD for the operation, maintenance, and spare and replacement parts in Khartoum, and an annual fee of \$44,000 (forty-four thousand) USD for the operation, maintenance, and spare and replacement parts for each additional FM transmitting facility as it becomes available. The initial payment for the operation and maintenance fee shall be made upon the date of the first operational broadcast from the respective FM facility based on a prorated annual amount; each annual payment thereafter shall be made in January of the following year.

c) Pay a monthly fee of \$2,000 (two thousand) USD for the temporary use of an FM transmitting facility in Khartoum until the completion of the newly constructed and fully operational site at a new location in Khartoum, when the payments outlined in paragraph (b) above will be implemented.

d) Pay for the acquisition of a 1 kW FM transmitter to be available for the exclusive use of the United States at the temporary FM transmitting facility in Khartoum. This FM transmitter will be relocated to one of the 11 additional FM facility sites once the FM facility in Khartoum has been completed.

e) Pay for the component package of necessary equipment at each of the remaining eleven (11) prospective transmitting facilities as listed in Annex "C" of this Agreement. The amount for such component costs shall be for prices agreed to by both Parties; however, total costs shall not exceed \$100,000 (one hundred thousand) USD per FM facility without prior approval of the United States.

f) BBG will seek waiver approval through the United States Department of State and the Office of Foreign Asset Controls (OFAC) to authorize BBG to purchase and ship spare parts for SRTC's Harris MW transmitters currently in possession of SRTC. SRTC will be responsible for all costs associated with the procurement and shipping of the Harris spare parts. This provision applies only to transmitters already in the possession of Sudan prior to the date of this Agreement.

The United States obligations under this Agreement are contingent upon the availability of appropriated funds.

ARTICLE IX

TERM

This Agreement shall enter into force upon signature and shall have an initial term of six (6) years from the date of the first operational broadcast from the FM facility, subject to renewal by mutual agreement of the Parties for a four (4) year term, for a total term not to exceed ten (10) years under this Agreement. The United States shall promptly furnish notice to Sudan of the date of the first operational broadcast.

Upon prior written request of the United States, at least one year prior to the end of the initial six-year term, this Agreement may be extended for an additional four year term. Such extension shall be subject to the same terms and conditions contained in the present Agreement.

This Agreement may be terminated by either Party upon at least one year's written notice through diplomatic channels. Upon the proper termination of the term of the final Agreement, including any extensions, all equipment under the Agreement shall be SRTC's property.

This Agreement may be amended by written agreement of the Parties.

The Annexes shall form an integral part of this Agreement.

ARTICLE X

FORCE MAJEURE

In the event that during the term of this Agreement, the performance of any obligation under this Agreement shall be prevented, hindered, or delayed by a Force Majeure event, the Party or Parties so affected shall be excused from performing any or all of those obligations, but only during the period in which it is so prevented, hindered or delayed. If such Force Majeure circumstances exist for more than twelve (12) months, either of the Parties shall have the right to denounce further execution of their obligations under this Agreement, without constituting a breach thereof, and, in such an event, neither of the Parties shall have the right to claim reimbursement by the other Party for any losses incurred.

Any Party claiming such excuse or delay occasioned by a Force Majeure event shall give prompt notice in writing thereof to the other Party as soon as possible after the

occurrence of the event as well as prompt notice of the ending of the Force Majeure event.

The affected services shall be resumed as soon as possible, and the term of this Agreement may, by mutual written agreement, be extended for a period of time corresponding to the actual non-performance period.

For the purpose of this Agreement, a "Force Majeure" event shall mean an event beyond the reasonable control of the Parties, unforeseen and unforeseeable, and includes, without limitation, acts by direct, immediate and exclusive operation of the violent forces of nature, uncontrolled or influenced by human intervention (including floods, earthquakes, and unusually severe weather), acts of war (declared or undeclared), any public enemy, riots, blockades, hijackings, embargoes, strikes or lockouts, casualties or accidents, deliveries or transportation shortages of cars, trucks or fuel, sustained interruptions of essential services including power, electricity, fuel, water, labor or materials, or any other causes or circumstances, or contingencies that may prevent, hinder or delay the performance by the Parties of any of their obligations under this Agreement.

ARTICLE XI

EXAMINATION OF RECORDS

Sudan agrees that the United States, through its officials including the Comptroller General of the United States and any other duly authorized representatives, shall have access to and the right to examine, together with auditors from Sudan, any directly pertinent books, documents, papers, and records of Sudan involving transactions related to this Agreement for a period lasting three (3) years after final payment under this Agreement or until any dispute or issue relating to interpretation of this Agreement is resolved.

ARTICLE XII

INTERPRETATION AND DISPUTES

This Agreement shall be governed, construed, and interpreted in accordance with international law.

Sudan and the United States, at the request of either Government, will hold meetings whenever necessary on the implementation of this Agreement. In the event of a disagreement concerning the interpretation or implementation of this Agreement, the

Parties shall endeavor to settle their dispute amicably and by means of negotiation. Disputes regarding the interpretation or application of this Agreement that cannot be resolved by negotiation shall be submitted to the Director of the International Broadcasting Bureau, or his/her designee, and to the _General Director of SRTC, or his/her designee, for final resolution. In the event the dispute cannot be resolved by negotiation between the Director BBG and General Director SRTC, the dispute shall be settled through diplomatic channels.

ARTICLE XIII

INVOICES

The United States shall pay all proper invoices under this Agreement by Electronic Funds Transfer ("EFT") of United States Government funds to the Sudanese designated bank account as instructed by the necessary EFT payment routing information provided by the Sudan on each invoice or USDollar equivalent check issued to SRTC through the USEmbassy Khartoum. The invoices shall be submitted via the internet in PDF file format to: !! HYPERLINK "mailto:INVOICES@MOR.IBB.GOV" ¶ INVOICES@MOR.IBB.GOV¹.

The original invoice shall be mailed to:

Attn. Station Manager
IBB Transmitting Station
BP 162
Tangier 90000
Morocco

ARTICLE XIV

EFFECTIVE DATE OF AGREEMENT

The Effective date of this Agreement shall be the date on which it enters into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

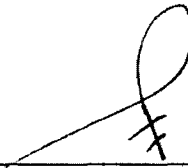
DONE at Khartoum, this 12th day of July, 2006,

FOR THE GOVERNMENT OF THE



Cameron Hume
Chargé d'Affaires
Embassy of the United States of America

FOR THE GOVERNMENT OF THE



Dr. Amin Hassan Omer
Director General
Sudanese Radio & TV Corporation

Annex "A" – Major Items of Equipment Required at each FM Transmitting Facility

**Annex "B" – Operations and Maintenance Requirements for U.S. Government FM
Broadcasting Facility**

Annex "C" – List of Prospective FM Facility Sites

ANNEX "A"

To the Agreement between the Government of the United States of America and the Government of the Republic of the Sudan for establishment of U.S. Radio Transmitting Facilities in Sudan; the below text of Annex "A" is an integral part of this Agreement.

MAJOR ITEMS OF NEW EQUIPMENT REQUIRED AT THE FM TRANSMITTING FACILITIES PROVIDED BY THE GOVERNMENT OF THE REPUBLIC OF SUDAN

1. Transmitters: Transmitters shall be Frequency Modulation (FM) type and shall include a stereo generator. The BBG and SRTC will through technical coordination specify required transmitter power level for each site (generally between 1 and 5 kW).
2. Antennas: For sites where a new antenna is determined to be required, the BBG and SRTC will through technical coordination specify the required type of FM antenna (i.e. the number of bays), gain and beam pattern. For sites where the antenna is shared with another transmitter, an appropriate combiner shall be provided.
3. Audio Processors: Each transmitter shall have an internal or external processor with a stereo broadcast capability and AGC level control.
4. Satellite Receiving Systems: Each site shall have a dedicated satellite receiving system meeting the following general characteristics and including the following equipment:
 - a. General: 3.4-meter or appropriate size C-band receiving system
IOR satellite, NS-703, 57 degrees east
4055 MHz downlink frequency
FEC 1/2
Symbol Rate: 26Ms/Sec
Network ID: 3
 - b. Antenna: 3.4-meter or appropriate size parabolic antenna with a RHC feed horn.
 - c. Satellite Receivers: Two digital receivers (primary and hot stand-by), both capable of DVB/MPEG 2 reception.
5. Electrical Generators: The BBG and SRTC shall coordinate on the need for electrical power generators—either for primary or back-up service—at each transmitting site, taking into consideration the electrical power arrangement already present at existing SRTC sites. SRTC shall provide the BBG with commercial power reliability data for those transmitting sites where analysis of such data will facilitate the determination of

whether electrical power generators are required. Where determined to be required, a generator system and/or Uninterruptible Power Supply (UPS) shall be provided, sized to accommodate the transmitter, air conditioning, and auxiliary equipment loads. The generator system shall include an automatic start and transfer capability at sites where it will be used as a back-up to commercial power.

ANNEX "B"

To the Agreement between the Government of the United States of America and the Government of the Republic of the Sudan for establishment of U.S. Radio Transmitting Facilities in Sudan; the below text of Annex "B" is an integral part of this Agreement.

OPERATIONS & MAINTENANCE REQUIREMENTS FOR UNITED STATES GOVERNMENT FM BROADCASTING FACILITIES

A. The following general responsibilities for Operations, Maintenance, and Security of the FM Transmitter sites shall be set forth in a separate forthcoming agreement between SRTC and the BBG, in more detailed description, within 90 days of the effective date of this Agreement.

1. SRTC shall assure normal broadcast operation of the FM transmitters at rated power output. The Parties intend that operations at each transmitter site be for 24 hours per day, each day of the year, except for agreed-upon maintenance periods. Daily monitoring of this operation shall be part of the normal operations tasks.
2. SRTC shall perform preventive and recurring maintenance of the FM Transmitters and antenna network components according to the manufacturer's recommended procedures and schedules.

B. When program transmission failures and/or other technical difficulties are encountered, SRTC shall take action in accordance with the procedures set forth in the forthcoming agreement between SRTC and the BBG.

ANNEX "C"

To the Agreement between the Government of the United States of America and the Government of the Republic of the Sudan for establishment of U.S. Radio Transmitting Facilities in Sudan; the below text of Annex "C" is an integral part of this Agreement.

LIST OF CITIES FOR ESTABLISHMENT OF UNITED STATES GOVERNMENT FM BROADCASTING FACILITIES

1. Khartoum
2. Juba
3. Al-Fashir
4. Wad Madani
5. Port Sudan
6. Bentiu
7. Geneina
8. Atbara
9. Malakal
10. Kadukli
11. Damazin
12. Ubaid