Sovereign Debt News Update No. 134: Navigating Sovereign Debt Crisis and Legal Battles Amid Political Instability: Afreximbank vs South Sudan

By:

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April 24, 2025

More than a decade after independence, South Sudan still faces fragility, economic stagnation, and instability. After nearly five years of civil war, Salva Kiir and Riek Machar (the heads of the two main opposing political coalitions) participated in negotiations in June 2018, resulting in the Revitalized Agreement on the Resolution of the Conflict in South Sudan. However, the interaction of political and economic processes in South Sudan has come under public scrutiny as the country is facing immense economic and political hardships. Recent fighting and the arrest of opposition leaders has put a spotlight on the country's worsening interethnic tensions, pointing to the fragility of its 2018 peace agreement. At the same time, South Sudan is currently embroiled in a complex legal and financial dispute with the African Export-Import Bank (Afreximbank), which seeks to recover USD$657 million in trade and pandemic-related facilities in debts from the South Sudanese government. This update situates the legal proceedings in South Sudan's rising debt burden and political challenges, highlighting continuous trend of foreign courts being designated as applied jurisdictions for dispute resolution when African countries/financial institutions are parties. Overall, the update spotlights the implications for the country's governance and international relations.

The Afreximbank Lawsuit

Afreximbank, a multilateral financial institution that plays a significant role in financing intra-African trade, has initiated legal actions against South Sudan, demanding the repayment of outstanding loans amounting to USD$657 million. The loans are governed by UK law. The case, which is unfolding in the High Court of England and Wales (Commercial Court), centres around loans that South Sudan's government had acquired to support its economic and infrastructural development. However, following the country's prolonged civil conflict and the severe economic repercussions that followed, South Sudan's ability to meet its debt obligations has been severely compromised.

According to one source, a London High Court filing that was made in April 2024 shows that Afreximbank named both South Sudan's government and its Central Bank, the Bank of South Sudan, as defendants in the case. Afreximbank is seeking to recover loans provided under three separate agreements with South Sudan. According to court filings, the bank approved a US$400 million term loan in 2019, intended for trade-enabling infrastructure and other purposes. In August 2020, Afreximbank extended US$63 million under its Pandemic Trade Impact Mitigation Facility, aimed at supporting South Sudan's working capital needs in response to the Covid-19 pandemic. Later, in December 2020, the bank provided an additional USD$250 million through another pandemic-related facility, designed to strengthen South Sudan's trade sector, fiscal position, and procurement of medical supplies during the crisis. Afreximbank now contends that all three agreements have fallen into default. Afreximbank claims that as at 29th February 2024 it is owed as follows:

LOAN	PRINCIPAL	ACCRUED & UNPAID CONTRACTUAL INTEREST & DEFAULT INTEREST
October 2019	USD 230,993,381.82	USD 67,931,411.52
August 2020	USD 11,391,162.27	USD 2,451,485.77
December 2020	USD 187,037,697	USD 41,732,394.94

South Sudan and its Central Bank were not represented at a recent hearing despite hard copies having been sent to both institutions. Apparently the emails bounced back, which raises the question whether or not other means of serving the defendants were attempted. Afreximbank is now seeking summary judgment from the High Court to force repayment of the debt.

A Repeated History of Defaulting Loan Payments

According to one source, Afreximbank claims a South Sudanese company Trinity Energy, along with related entities, provided security for the 3 arrangements which have fallen in default. Trinity Energy supplies refined fuel products such as diesel and gasoline to the local market. In our One Hundred and Fifteenth Sovereign Debt News Update, we highlighted a 2023 report by The Sentry which was the result of a three-year investigation into a loan deal between Trinity Energy, Afreximbank, and the government of South Sudan. The report spotlighted a 2018 deal in which South Sudan's Trinity Energy Limited entered into a trade finance facility with Afreximbank for a series of $30 million loans to purchase diesel and gasoline to sell to the South Sudan market. This report, titled "Crude Dealings: How Oil-Backed Loans Raise Red Flags for Illegal Activity in South Sudan", uncovered red flags for illicit business practices including bribery, tax evasion, and trade-based money laundering. According to the report, "*the government of South Sudan committed to award cargoes of crude oil to Trinity Energy. The deal skirted legislation on oversight, transparency, and competition and facilitated off-book government spending.*"

It therefore would be unsurprising to learn of similar mishaps under this new USD$657 million legal battle.

Further, our One Hundred and Fifteenth Sovereign Debt News Update noted that South Sudan's troubled history with such agreements has not been without legal consequences for defaulting on payments. Britain's High Court in June 2020 ordered South Sudan to pay commodity trading giant Trafigura $9.7 million within 30 days. Court documents show the government had already paid an additional $36 million towards the debt earlier this year, following legal action after South Sudan failed to deliver six cargoes on time between May 2018 and March 2019. A UN report in April 2021 revealed that South Sudan lost nearly 25% of potential revenue on a $446 million loan due to fees, interest, and costs. In May 2024, South Sudan was ordered to pay more than one billion dollars in an International Centre for Settlement of Investment Disputes (ICSID) award ruled in favour of Qatar National Bank (QNB). The case stems from a $700 million loan the Qatar bank gave South Sudan in 2012. These cases show a recurring feature of resource-backed loans, which have all received public attention as most have been heard either in the UK courts or arbitrated at ICSID. Interestingly, financial institutions have continued to lend loans to the government of South Sudan, despite a clear indication that the relations tend to end in legal battles. Why are lenders continuing to lend a government that has repeatedly defaulted on its payments?

Political Implications and Regional Reactions

The financial and legal strain has not only drawn the attention of international creditors but also highlighted the vulnerability of South Sudan's fledgling political institutions. Recent developments, including the arrest of Vice President Riek Machar by the (South Sudanese) government of President Kiir, have further complicated the country's peace process and governance framework. Machar's arrest has been seen as a direct challenge to the peace agreement signed between the South Sudanese government and opposition forces, resulting in the international and regional community stepping up to intervene-in one way or the other.

The rising tensions have attracted international scrutiny, with Britain urging its citizens to leave South Sudan, citing the escalating risks in the country's volatile political climate. This further casts a shadow on the country's investment climate, which is essential for rebuilding its war-torn economy. On the 31st of March 2025, the African Union Commission announced, in a statement, its solidarity with people of South Sudan, reaffirming commitment to dialogue, reconciliation, and lasting peace. The Commission has since deployed a "*Panel of the Wise*" for mediation following the escalating tension in South Sudan. The delegation sent by the Commission followed Former Kenyan Prime Minister Raila Odinga visit to Juba to meet with South Sudanese President Salva Kiir. As guarantors to a 2018 peace agreement that created a coalition government between Kiir, Machar and several other armed groups, Kenya, Uganda and Ethiopia have been in conversation over South Sudan, with President William Ruto of Kenya noting that he had consulted Ugandan President Yoweri Museveni and Ethiopian Prime Minister Abiy Ahmed before deploying Mr Odinga.

The South African government also expressed deep concern over rising tensions in South Sudan, especially following the arrest of Machar. South Africa's International Relations and Cooperation Minister, Ronald Lamola, declared its solidarity with the people of South Sudan, emphasizing *the necessity of collective efforts aimed at concluding the transitional period and ensuring the holding of inclusive elections by 2026*. Meanwhile, the United Nations Mission in South Sudan has called on all Parties to exercise restraint and uphold the Revitalized Peace Agreement.

Economic Status

Afreximbank's efforts to recoup these loans reflect broader concerns about the sustainability of South Sudan's foreign debt, and its potential impact on the country's economic future. According to the International Monetary Fund (IMF), the risk of external debt distress for South Sudan is assessed as high given the baseline projections with the current borrowing assumptions. Further, it is imperative to highlight that the debt crisis is further exacerbated by the limited fiscal space available to the South Sudanese government, as it grapples with high inflation, a declining oil revenue stream, and ongoing political instability. Consumer Price Index CPI in South Sudan averaged 135.26 points from 2024 until 2025, reaching an all-time high of 178.81 points in February of 2025. According to an October 2024 End-Of-Mission press release by the IMF, the pipeline that carries about 70% of South Sudan’s oil exports has been inoperable since February 2024. According to one source, a finance ministry official indicated in March 2025 that South Sudan had suspended development projects funded by Arab and international lenders, including the World Bank and African Development Bank (AfDB), due to mounting debt arrears and the ongoing conflict. The projects, some part of peace deals, were underway in Khartoum and several other states, including West Kordofan, West Darfur, Northern, Gedaref, Kassala, and Red Sea states.

South Sudan’s engagement with Afreximbank over this debt recovery issue will likely set the tone for the country's future relationship with international financial institutions. Undoubtedly, the case underscores the complexities of managing sovereign debt in an environment of political instability and economic fragility. As international creditors like Afreximbank look to secure their financial interests, the South Sudanese government faces the dual challenge of addressing both its immediate debt obligations and its long-term development needs.

The broader regional context, including rising political tensions and the possibility of renewed violence, could influence the trajectory of these negotiations. The international community’s role in encouraging de-escalation and supporting South Sudan in achieving a sustainable debt resolution will be critical in shaping the future of the country’s economic recovery.

Conclusion

South Sudan highlights the precarious position the country finds itself in, both financially and politically. The country is in a serious state of political decomposition due to the protracted conflict, making it difficult to fully engage in the ongoing legal battle with Afreximbank. Undoubtedly, any escalation in the political and security environment could further impede South Sudan’s negotiations with creditors like Afreximbank. With substantial debt obligations and an unstable political environment, South Sudan is at a critical juncture in its post-conflict reconstruction efforts. The Afreximbank case underscores the challenges faced by African nations in managing sovereign debt while balancing economic development with political stability.

As South Sudan navigates this complex situation, the international community's role in fostering dialogue, ensuring peaceful resolutions, and supporting sustainable economic policies will be crucial. Whether South Sudan can emerge from this crisis without further destabilizing its fragile governance system will depend largely on its ability to address its debt burdens and maintain peace within its borders.

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