

**SINGLE NEGOTIATING TEXT ARISING FROM DRAFT II
FRAMEWORK FOR POLITICAL AND SECURITY NEGOTIATIONS
TOWARDS RESOLUTION OF CRISIS IN SOUTH SUDAN**

**Presented by
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PREAMBLE

Concerned about the grave crisis facing South Sudan that continue to linger on since 15th December 2014, consuming the country and the region as a whole and resulting in senseless loss of life, mass displacement of populations and wanton destruction of property;

Mindful that the crisis in South Sudan cannot be permitted to continue deteriorating amid the looming famine threat of a full scale war and subsequent nationwide war-induced famine;

Cognizant that the crisis in South Sudan must be addressed expeditiously to stop the killing, end the war and restore peace and stability in the country;

Recognizing that there are African solutions for African problems drawn from a rich African experience of resolving crisis of this nature;

Acknowledging the ongoing concerted efforts led by the Political Leadership of IGAD Region who have thus convened four extraordinary summits between December 2013 and June 2014, and initiated South Sudan Dialogue for National Reconciliation and Healing mediated by the three IGAD Special Envoys;

Further acknowledging the extensive consultations carried out by the Special Envoys throughout the region and beyond;

Recalling the achievement made thus far by the Parties in the conflict: the signing of the Cessation of Hostilities Agreement on 23rd January 2014, the establishment of the Monitoring and Verification Mechanism and its operationalization, the deployment of Protection Force for the IGAD Monitors under UNIMISS mandate and the inclusive participation of other South Sudan stakeholders in the dialogue and National Reconciliation and Healing;

Applauding the critical support provided by IGAD partners and friends of South Sudan to the peace process in its entirety towards the resolution of the conflict;

Now therefore, the Parties Agreed that it is time to resolve the crisis in South Sudan without further delay as follows:

1. AGREED PRINCIPLES

To find a comprehensive solution that will address the political, security, economic and social deterioration of South Sudan and replaces war not just with peace, but also with human security, social, political, economic and justice, which respects the fundamental human and political rights of all the South Sudanese people.

1.1 The following documents shall form the basis of Terms of References (TOR) for the Political Negotiations:

- a) IGAD Agenda phase II Session III of 28th April 2014; Agenda of 30th July 2014 adopted by the stakeholders on 9th August 2014; Agreement to Resolve the crisis in South Sudan, Addis Ababa, 9th May 2014 endorsed and further elaborated by 26th extraordinary Session of the IGAD Assembly of Heads of States and Government on the situation on South Sudan on 10th June 2014;
- b) Agreement on Recommitment to Humanitarian Matters in the Cessation of Hostilities Agreement between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement/Army (IN Opposition) (SPLM/A-IO) on 6th May 2014;

1.2 Establish a Transitional Government of National Unity (TGONU) that offer the best chance for the people of South Sudan to take the country forward;

1.3 Negotiate a transitional agenda, mandate and powers of a TGONU that will oversee government function during the Transitional Period to implement critical reforms that will be negotiated through peace process;

1.4 Ensure the inclusion of all South Sudanese Stakeholders in the peace process, and negotiation of a TGONU, in order to ensure broad ownership of the peace outcomes; Stakeholders include: the two direct negotiators (the GRSS and SPLM/A-IO), and others such as the SPLM Leaders (Former Detainees), Political Parties, Civil Society, and Faith Base Leaders;

1.5 Agree on participation of all South Sudanese Stakeholders, in the negotiations on transitional governance, the permanent constitution, and any other items concern the political future of the country and reconciliation of South Sudanese communities;

1.6 Agree that the TGONU shall oversee a permanent constitution process and guide the country to new elections.

2. THE TRANSITIONAL PROCESS

In order to end the conflict and to secure a peaceful and prosperous future for people of South Sudan and in order to collaborate in the task of governing the country, the Stakeholders hereby agree to:

2.1 TRANSITIONAL GOVERNANCE ARRANGEMENTS

a) Establishment of the Transitional Government of National Unity (TGONU):

Guiding Principles:

- I. The People of South Sudan, in their social and political diversity, shall participate in the institutions of the TGONU at all levels, which shall respect the need for representation and inclusiveness in the staffing and management of its organs, ministries, departments and agencies without prejudice to merit;
- II. The nature and the structures of the TGONU shall be equitably constituted and their mandates defined by this Agreement;
- III. The organs of government (Executive, Legislature and Judiciary) as reformulated for the Transitional Period shall operate independently and ensure the principle of checks and balances is upheld.

b) Establishment, Structure, Composition, Mandate and Leadership:

Establishment

- i. Pursuant to the 10th June, 2014 Agreement, there shall be established a transitional government of national unity whose key functions shall be to restore security, stability, law and order, work to regain the confidence of the people, especially those most affected by the conflict, and ensure the wellbeing of all citizens.
- ii. Establishment of the Transitional /Interim Government of National Unity shall be preceded by a Pre-Interim Period of three months.

The Mandate

The Transitional Government of National Unity shall exercise the following mandate:

- i. Implement this Peace Agreement reached by the parties during the IGAD mediated Peace Talks on the conflict in South Sudan;
- ii. Lead the process of national reconciliation and healing to overcome the grave challenges that threaten to tear the country apart;
- iii. Oversee the constitutional review process leading to a new Constitution that reflects the aspirations and will of the people of South Sudan;
- iv. Conduct national census and demarcation of constituency boundaries;
- v. Create conducive political and legal environment for multiparty democracy and for holding of free and fair elections at the end of the Interim Period;
- vi. Implement the cease-fire Agreement and undertake security sector transformation and reforms to ensure that security forces

- are national in character, respect the Constitution, rule of law and human rights of all citizens;
- vii. Rehabilitation and reform of the civil service,
 - viii. Ensure prudent, transparent and accountable management of national wealth and resources for building the nation and promoting the welfare of the people;
 - ix. Undertake programmes for the relief, resettlement and rehabilitation and repatriation of citizens who have been internally displaced and refugees from the neighbouring countries;
 - x. Work closely with the African Union, particularly with the IGAD sub- region and the international community, to consolidate peace and stability in the country during the Interim Period; and
 - xi. To facilitate the work of the AU Commission of Inquiry into the Human Rights Violations committed since 15th December 2013, as well as any investigation by the UN Human Rights Commission and other human rights bodies, in order to ensure justice and accountability and deter impunity.

Structure

The structure of the TGONU shall be as follows:

- (i) President;
- (ii) Prime Minister;
- (iii) Vice President;
- (iv) Two Deputy Prime Ministers;
- (v) National Cabinet and Deputy Ministers; and
- (vi) Limited number of Advisors.

Composition and Leadership

The Transitional Executive shall consist of

- i. The President and the Prime Minister, to be shared between the Government and SPLM/A-IO;
- ii. In event of disagreement on the above , the two principals are to be excluded;
- iii. Vice President, to the Political Parties;
- iv. Two Deputy Prime Ministers; one to the SPLM Leaders (FPD) and one GRSS ;
- v. The persons who will assume the positions of President, Prime Minister and Vice President shall not be eligible to run for office in the next electionand
- vi. the cabinet shall be shared as in (f) below.

Parties that will form the Government are:

- a. The current government,
- b. SPLM/ A in Opposition,

- c. SPLM Leaders (FPD),
- d. Political Parties

Power sharing among the above shall be as follows:

- a. Government..... (28%)
- b. SPLM/ A (IO)..... (27%)
- c. SPLM Leaders (FPD)..... (25%)
- d. Political Parties (20%)
- e. Each of the four groups shall allocate 25% - 30% for women.

Duration

The duration of the Transitional Period shall be three calendar years beginning from the day the Agreement is adopted by the National Legislature.

A) Functions and Powers of the Transitional National Executive:

(a) Functions and Powers of the President

The President is the Head of State and shall exercise the following functions and powers:

- i. Preserving the sovereignty of the Republic of South Sudan and protects its territorial integrity;
- ii. Performing all the ceremonial functions of the Head of State;
- iii. Carrying out the functions and duties of the Commander-in-Chief of the armed forces (SPLA);
- iv. Exercising command authority over the armed forces which shall flow from him to the Prime Minister, the Minister of Defense and the Chief of General Staff;
- v. Appointing the Vice President in accordance with this Peace Agreement;
- vi. Appointing the Prime Minister in accordance with this Peace Agreement;
- vii. Appointing the two Deputies of the Prime Minister on recommendation of the Prime Minister in accordance with this Peace Agreement;
- viii. Appointing presidential advisors in consultation with the Prime Minister;

- ix. Appointing the Chief Justice, Justices of the Supreme Court and Constitutional Court on the recommendation of the Judicial Service Commission;
- x. Declaration and termination of state of emergency in accordance with the Constitution;
- xi. Initiating constitutional amendments in consultation with the Prime Minister, assents to bills passed by the National Legislature and signs them into law;
- xii. Convening, summoning and adjourning the National Legislature in consultation with the Prime Minister and Speaker of the National Legislature;
- xiii. Declaring war in consultation with the Prime Minister and in accordance with the Constitution;
- xiv. The President shall chair meetings of the National Defense Council (NDC);
- xv. Appointing ambassadors and diplomatic representatives to foreign countries on recommendation of the Minister of Foreign Affairs through the Prime Minister;
- xvi. Appointing new Governors for Jonglei, Unity, Lakes and Northern Bahr el Ghazal states, to serve for the duration of the Interim Period, in consultation with the Prime Minister;
- xvii. Commissioning, appointing and dismissing officers of the military and other organized forces in consultation with the Prime Minister and with approval of the National Defence Council;
- xviii. Signing letters of accreditation of diplomatic and consular representatives of the Republic of South Sudan to foreign countries, regional and international organizations, and accepting the credentials of diplomatic and consular representatives of foreign countries and receiving their letters of credence;
- xix. Overseeing the implementation of laws of the country, exercising the prerogative of pardon, commuting or

approving death sentences, in accordance with the provisions of the Constitution and the law;

- xx. Conferring decorations and Medals of Honour, both civil and military; in accordance with the laws governing such decorations and medals;
- xxi. Addressing the opening sessions of the National Legislature; and special sitting once a year on the state of the nation;
- xxii. Addressing the National Legislature any time as the situation may require;
- xxiii. Any other function vested in him/her in conformity with the Constitution and the law;
- xxiv. When the President is unable to discharge his/her functions owing to absence, illness or any other cause, the Vice President shall discharge his/her functions until the date on which the President resumes his/her duties.

(b) Establishment, Powers and Functions of the Office of Prime Minister

Establishment:

- i. There shall be established during the Transitional Period, the Office of the Prime Minister who shall be the executive head of Government;
- ii. The Prime Minister shall be appointed by the President in accordance with this Peace Agreement;
- iii. The Prime Minister shall be assisted by two Deputy Prime Ministers, one of whom shall act on his/her behalf during his/her absence; each shall be assigned a ministerial portfolio;
- iv. In appointing or removing the members of his/her cabinet, the Prime Minister shall consult with the President in accordance with this Peace Agreement taking into account the power sharing arrangements;
- v. The Office of the Prime Minister shall fall vacant in the event of death, physical incapacitation, mental infirmity or gross violation of the Constitution;

- vi. If the Prime Minister loses his/her position as stated in (v) above, the President shall appoint another Prime Minister from the same party or group(ing) of the departed Prime Minister in accordance with this Peace Agreement;
- vii. A candidate for the Office of the Prime Minister shall meet the eligibility criteria for the President prescribed under Article 98 of the Transitional Constitution.

Functions and Powers:

The Prime Minister:

- i. Is the Chief Executive and Head of Government and chairs the meetings of the National Council of Ministers;
- ii. Directs the daily business/operations of the Government;
- iii. Appoints members of the National Council of Ministers after consultation with the President in accordance with this Peace Agreement;
- iv. Chairs the National Security Council and be a member of the National Defense Council;
- v. Oversees the implementation of laws and policies passed by the National Legislature;
- vi. Initiates legislation on all matters of national development in accordance with the Transitional Constitution and presents such bills to the National Legislature;
- vii. Negotiates international agreements, treaties and conventions with approval of the Council of Ministers and approval of the National Legislative Assembly;
- viii. Causes the preparation of the annual budget of the country and its presentation to the National Legislature;
- ix. Consults with the President and the Council of Ministers on issues of public policy and functioning of government;
- x. Appoints senior civil servants after approval by the Council of Ministers;

- xi. Directs, coordinates and oversees the work of the ministries and other public institutions and agencies.

(c) The Council of Ministers:

Composition, Powers and Functions

- i. All the Articles of the Constitution from Article 108 to 121 inclusive, under Chapter III, of the Constitution providing for the establishment, powers, functions, competences of the National Council of Ministers and all other related matters thereto, shall apply to the new Council of Ministers with the following modifications:
 - a. In Article 108 (2) and (3) the words “President” and “Vice President”, wherever they appear, shall be deleted and the “President” shall be replaced with “Prime Minister”.
 - b. Other articles relating to the Council of Ministers shall be amended to conform to this Peace Agreement.
 - c. The Transitional Council of Ministers shall consist of Prime Minister, two Deputy Prime Ministers and Ministers of which at least (30%) thirty percent shall be women and it shall be representative of the people of South Sudan.
 - d. The Council of Ministers shall be chaired by the Prime Minister and in his/her absence one of the Deputies shall act;
 - e. Selection of members of the Council of Ministers shall be based on the power sharing formula agreed upon by the Government, SPLM/ A in Opposition, SPLM Leaders (FPD) and the Political Parties in accordance with this Agreement;
 - f. No member of the cabinet may be removed except after consultation with his/ party or group who shall nominate a replacement;
 - g. Decisions of the cabinet shall be by consensus failing that, by simple majority; members of the cabinet shall be bound by collective responsibility.

Dispute resolution mechanisms

Any dispute relating or arising from interpretation of this Agreement shall be referred to the Constitutional Court/ Supreme Court

B) The National Legislature:

- i. The current National Legislature shall continue to discharge its functions to the end of its tenure in July, 2015 in accordance with the Transitional Constitution, and shall approve this Peace Agreement.

- ii. After July 2015, a new Transitional National Legislature shall either be extended or re-constituted by the Transitional Government in consultation with Parties to the Peace Agreement; and its tenure shall end with the end of the transitional period.
- iii. The offices of the Speaker and Deputy Speakers of the National Legislative Assembly and the Speaker and Deputy Speaker of the Council of States shall be subject to power sharing among the SPLM parties to this Peace Agreement.

Review of Commissions and Independent Institutions

- 1. The Transitional Government shall review the composition and membership of all existing commissions and independent institutions;
Existing Commissions (for review)

- 1. Anti-Corruption Commission
- 2. Public Grievances Chamber
- 3. Fiscal, Financial Allocation and Monitoring Commission
- 4. Audit Chamber
- 5. Relief and Rehabilitation Commission
- 6. De-Mining Authority
- 7. Disarmament, Demobilization and Reintegration
- 8. Peace Commission
- 9. HIV/AIDS Commission
- 10. National Bureau of Statistics
- 11. Human Rights Commission
- 12. Reconstruction and Development Fund
- 13. Civil Service Commission
- 14. Land Commission
- 15. Employees Justice Chamber
- 16. War Disabled, Widows and Orphans Commission
- 17. War Veterans Commission
- 18. Bureau for Community Security and Small Arms Control
- 19. South Sudan High Elections Committee
- 20. Local Government Board
- 21. South Sudan Law Reform (Review) Commission

- 2. In implementation of the Peace Agreement the following commissions and institutions shall be established:
 - (i) National Truth, Reconciliation and Healing Commission;
 - (ii) Joint Ceasefire Commission;
 - (iii) Joint High Military Integration Commission;
 - (iv) Civil Service Reintegration Committee;
 - (v) Commission for Implementation of the Peace Agreement;
 - (vi) The Public Procurement Board;
 - (vii) National Constitutional Review Committee;

- (viii) National Revenue Authority;
- (ix) Joint Security Sector Reform and Transformation Commission;
- (x) Strategic Defence and Security Review Committee.

The National Judiciary:

- a) Decentralization of the Judiciary and establishment of state judicial institutions to the level of High Courts whose decisions shall be appealable to the National Courts of Appeal and to the Supreme Court.
- b) Establishment of Constitutional Court for interpretation of the Constitution, adjudication of constitutional issues between levels of government and upholding human rights guaranteed by the Constitution;
- c) Building institutional and human resource capacity of the Judiciary is a critical task that must continue to be pursued;
- d) Scaling up the operational capacity of the Judiciary to ensure timely trials and delivery of judgments and avoid case backlogs;
- e) Implementation of training programmes for judicial personnel and support staff;
- f) Provision of reference legal materials in the courts such as law reports, law books and other publications;
- g) Hire more judicial personnel and build new court houses in the counties;
- h) Streamline the role of Judges and Prosecution Attorneys in pre-trial proceedings to avoid contradictions;
- i) Develop internal monitoring systems for judicial performance and link career advancement to performance;
- j) Mainstream gender in the judicial process;
- k) Promote the use of information technology to improve operational efficiency of courts;
- l) To avoid overcrowding in prisons there will be need to use non-custodial sentences;
- m) Weed out any corrupt Judges from the Judiciary; and
- n) Simplification of judicial rules and procedures to facilitate access to justice for the ordinary citizens;

Ministry of Justice:

- i) Devolution of prosecutorial and other legal functions of the Ministry to the states to facilitate the establishment of independent state Directorates of Public Prosecutions and Office of state Counsel Generals whose personnel fall under the states;
- ii) Establish an independent office of the Director of Public Prosecutions that is separate from the Ministry of Justice;

- iii) Recruitment and training of more Prosecution Attorneys and legal counsels to efficiently handle cases;

State, Local Governments and State Legislatures

(a) State Executive:

- i. Elected State Governors shall continue to perform their functions to the end of their tenure in July 2015, under the Transitional Constitution;
- ii. The President shall appoint new Governors for the four states of Jonglei, Lakes, Northern Bahr el Ghazal and Unity, in consultation with the Prime Minister and the Parties to the Peace Agreement taking into account the need for reconciliation and stability of these States; and shall serve for the whole of the Transitional Period.
- iii. After the expiry of the tenure of elected Governors on 9th July 2015, the same shall either be re-appointed or new State Governors shall be appointed by the President in consultation with the Prime Minister;
- iv. State Executives shall be reconstituted in a manner that ensures power sharing among the parties to the Peace Agreement.
- v. State Governments shall perform their functions in accordance with their State Constitutions.

(b) State Assemblies:

- i. The current State Assemblies shall continue to discharge their functions to the end of their tenure in July, 2015 in accordance with State Transitional Constitutions.
- ii. After July 2015, state transitional assemblies shall either be reconstituted or their tenure extended by the State Governors in consultation with the President and the Prime Minister; and their tenure shall end with the end of the Transitional Period.

Local Government (Counties):

- i. County Commissioners shall be appointed by the Governors during the Transitional Period;
- ii. County Commissioners in the States of Jonglei, Upper Nile and Unity, who were affected by the crisis of 15th December, shall be reinstated in their positions.

Duration of the TGONU.

There shall be Pre-Transitional Period whose commencement and duration shall be 3 months commencing from the date of signing of the Peace Agreement;

- a) The Peace Agreement negotiated, and the necessary amendments to the Transitional Constitution, shall be presented to the national Legislature for adoption within the first 4X weeks from the conclusion

- of the Agreement. The Legislature will not introduce any amendments to the text;
- b) The amended Transitional Constitution shall not be amended or repealed during the Transitional Period except by way of special procedure and qualified majorities (three quarters of all the members of the National Legislature) in order that the provisions of the Peace Agreement are protected, as provided for in the Transitional Constitution, and shall form the basis upon which South Sudan shall be governed during the Transitional Period;
 - c) The Stakeholders shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement;
 - d) The amended Transitional Constitution shall be the supreme law of the land. It shall regulate the relations and allocate the powers and functions between the different levels and organs of government;
 - e) South Sudan shall work towards sound ideological and political path by undertaking the renewal and re-launching of the Sudan People's Liberation Movement (SPLM) both as a united political party and a vehicle for addressing leadership issues in the country.

TRANSITIONAL PERIOD

- a) The TGONU will commence at the end of the pre-Transitional period and shall last for 3 years;
- b) During the Transitional Period, critical reforms in Security Sector, Civil Service, Judiciary, Economic and Financial Sector, Service Delivery, Reconstruction and Development, Media, Natural Resources Sector, Physical Infrastructure, Foreign Policy, Commissions, National security Agencies, Police, Prison, Wildlife Services, Civil Defence, National Election Commission, National Bureau of Statistics, and Social Service Sector; review of the Political Parties Act and the Constitutional Review Commission shall be carried out as stipulated in the Agreement;
- c) The TGONU shall determine whether to conduct census for the purpose of elections or use available statistics from the population census of 2008 to carry out elections;
- d) During the Transitional Period, national elections shall be organized by the TGONU. The TGONU shall review the electoral system and procedures as contained in the National Elections Act, 2012:

3. TRANSITIONAL SECURITY ARRANGEMENTS AND PERMANENT CEASEFIRE

Upon signing the Agreement the parties commit to total separation of the forces of the two warring parties, the assembly and cantonment of military forces at pre-designated sites, to enable personnel, weapons and equipment accountability, screening, reorganization and/or disarmament and demobilization. In view of this, the parties agree to:

- 3.1 Immediate cessation of all hostilities and observance of permanent ceasefire that is independently monitored and verified;
- 3.2 Negotiate location of assembly/ cantonment sites, population centers that are to be demilitarized, and withdrawal timelines, which will form part of the Peace Agreement;
- 3.3 Movement begins immediately upon signing the Peace Agreement/Permanent Ceasefire and should be complete in 45 days. The results of the strategic defence and security review (3.6) will dictate the length of time forces remain in assembly/cantonment areas.

Upon signing the agreement the stakeholders agree to complete withdrawal of foreign allied forces from South Sudan to their countries of origin within one month in accordance with the provision of the Cessation of Hostilities Agreement;

- The withdrawal to start within D-Day+7 days, and to be completed within 30 days.

- 3.4 Upon signing of the agreement the stakeholders shall, within X7 days after adoption of Permanent Ceasefire Agreement, establish a ceasefire management mechanism that consists of two elements:
 - a) A Joint Ceasefire Commission (JCC) responsible for the day-to-day operational management of the ceasefire and security arrangements process through the provision of Monitoring and Verification Teams and;
 - b) The Joint Technical Commission (JTC) shall be responsible for addressing political issues that might impede progress as well as disputes, that cannot be resolved by the Joint Ceasefire Commission. The stakeholders shall agree to the composition of these structures;
 - c) The mandate of the IGAD MVM shall be amended within the same timeframe to reflect the Peace Agreement/Permanent Ceasefire provisions.
- 3.5 The TGONU commits to forming a committee to be known as the Strategic Defence and Security Review Committee (SDSRC) embedded in the Ministry of Defence, to conduct a holistic strategic defence and security review (to be completed within X 6 months after signing the Peace Agreement. The TGONU further commits that the results of the defence and security review will provide detailed policies for subsequent transitional security arrangement, and security sector reforms, including composition, demobilization, and amalgamation/integration.

3.6 The stakeholders shall consider the following parameters as the basis for the terms of references for SDSRC :

- a) Lay the ground for a significant change in how the country formulates and delivers its defence and security policy
- b) . Carry out a comprehensive assessment to clarify the requirements of South Sudan's national army and its relationship with other security institutions and actors.

Guiding Principles:

The following principles shall underpin the strategic defence and security review:

- National ownership, supported by regional and international assistance and resources, and academia;
- Conducted in a comprehensive, logical and rational manner, with each phase building on the previous one;
- Inclusive, consulting with individuals and organizations within and outside TGONU;
- Open and transparent, with the outcome of each phase communicated as widely as possible.

Phases:

Phase 1: Firstly, a strategic security assessment that examines the military and non-military security challenges that affect RSS currently and in the future; Secondly, a security policy framework, clarifying the responsibilities of different bodies and agencies in responding to these security challenges, including the management and oversight of the security sector; Thirdly, a revised defence policy, identifying specific roles and missions of the national army and outlining a vision for its modernization.

Phase 2: An analysis of the operational capabilities that South Sudan's national army will require to meet the challenges identified in phase 1, the supporting systems and structures that are needed for effective utilization of these capabilities. The key output should be a range of strategic models, specifying the level of human resources, equipment, and training needed to develop the military to respond to defence and security priorities, and the associated financial implications.

Phase 3: The findings of Phase 2 are submitted to political leadership for evaluation. Their task is to decide which model, or combination of models, best meet the needs of the nation, along with level of expenditure required. The findings of the review should then be

published in a White Paper on Defence and Security, approved firstly by the executive and then by the Legislative Assembly.

Phase 4: The Ministries of Security, Defence and Interior produce annual plans to turn RSS' vision of defence and security into practical, costed programmes.

- 3.7 During the Transitional Period the TGONU commits to equitable composition/participation in the key national security management and oversight bodies, including a National Security Council, National Defence Council, Military Command Council and Parliamentary Security Committee. Modalities of appointment to these bodies shall be as provided in Peace agreement.
- 3.8 Implementation shall be informed by the findings of the strategic defence and security review that will guide the composition and terms of reference of the bodies for the remainder for the Transitional Period.

4. RESOURCE, ECONOMIC AND FINANCIAL MANAGEMENT

In order to promote sound and transparent Economic and Financial Management (EFM) and systems, the Transitional Government shall collect revenue efficiently, spend prudently and be transparent and accountable to the citizens. This is necessary for promoting legitimacy and addressing unanswered grievances at the root of the conflict as one of the mechanisms for consolidating statehood. In view of this, stakeholders agree to:

- 4.1 A long-term EFM reform program as an agenda for the Transitional Government and public sector management to be implemented with the existing institutional and legal architecture;
- 4.2 The reform should help to establish effective, transparent and accountable management of oil and non-oil revenue, expenditure including public procurement and payroll, granting of public concessions, public borrowing and debt management compliant with existing laws;
- 4.3 Clear lines of authority, public disclosure requirements, and reporting channels among the Ministry of Finance and Economic Planning, the Ministry of Petroleum and Mining, the Bank of South Sudan (BOSS), the Presidency, the line Ministries, and Parliament laid out by the laws shall be adhered to;
- 4.4 The independence of the Audit Chamber to be guaranteed, its operations empowered to eliminate any political interference, with parliament playing its oversight role in the fight against corruption;

- 4.5 Enable the Anti-corruption Commission to fully perform its functions (of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, demanding that all persons holding public offices to make confidential formal declarations of their income, assets and wealth) independently without prejudice to the powers of the Ministry of Justice ;
- 4.6 To bar and punish all citizens, including political leaders having condoned or engaged in corrupt practices from public office in accordance with the law;
- 4.7 To develop a code of ethics and Integrity for public officials;
- 4.8 Establish a high level, competent and effective oversight mechanism that controls revenues, their allocation in broad terms through the budget and the effective spending for the planned purposes. The oversight mechanism shall be made up of all key stakeholders, including representatives of civil society and from the international community;
- 4.9 To make sound financial choices during the Transitional Period, the oversight mechanism should foresee provision of technical and advisory resource commitments to economic governance by the international community.

4.10 Specifically, the following reforms shall be undertaken:

a)Ministry of Finance and Economic Planning

- i. Implementation of Public Financial Management and Accountability Act;
- ii. Establishment of a National Revenue Authority;
- iii. Establishment of a central Public Procurement Authority;
- iv. Assessment and determination of the level of public debts and ascertain the correctness in procedures used;
- v. Adoption of strict macroeconomic coordination between the fiscal and monetary arms of the economy;
- vi. Adoption of strict measures to control uncoordinated borrowing and to ensure that all borrowing are in accordance with the law;
- vii. Strict enforcement of financial discipline in budget execution;

b) Bank of South Sudan (BOSS)

In order to curb market inefficiencies and asymmetries, the (BOSS) shall:

- i. Restructure the Bank of South Sudan (BoSS) including the adoption of comprehensive reforms to improve its

- supervisory functions and prudential regulatory roles in order to stamp out widespread corruption in its operations;
- ii. Take corrective measures to curb the misalignment and incessant exchange rate debacle inherent in the two parallel rates of the South Sudanese Pounds;
 - iii. Adopt tighter regulatory processes including the establishment of an Ombudsman body embedded in the Central Bank to keep watch on the regulators and play the role of guarding the guardians. This is important to mitigate the damning perversities such as malfeasance, bribery, and insider's dealing; conflict of interests and abetment of financial crimes by Bank officials.

c) Fighting Corruption

Measures to combat corruption:

- i. Political Leaders must demonstrate effective leadership and commitment in the fight against corruption and any leader found to have condoned or engaged in corrupt practices must be punished and barred from holding public office;
- ii. Parliament shall play effective oversight role in the fight against corruption;
- iii. Ensure strict compliance with Public Procurement and Disposal Law and Procedures;
- iv. Centralize public procurement and establish oversight institutions such as a Public Procurement Board;
- v. Develop a Code of Ethics and Integrity for Public Officials emphasizing the values of honesty and integrity;
- vi. Protect the independence of the Anti-Corruption Commission and empower it to reject any political interferences with corruption cases whether at the investigation stage or at commencement of trial before courts of law;
- vii. Harmonize the role of the Anti corruption Commission with the Ministry of Justice and the Police;
- viii. Build investigative capacity of Anti-corruption Commission;
- ix. Investigate and prosecute all outstanding cases of corruption without fear or favour;
- x. Strengthening of legal and institutional frameworks of the Anti Corruption Commission and to ensure their enforcement;

- xi. The Government shall accede to regional and international conventions on Corruption particularly the African Convention on Preventing and Combating Corruption (AUCPC) and the UN Convention Against Corruption (UNCAC);
- xii. Enforcement of Public Procurement laws and regulations;
- xiii. Involvement of the Media in policy advocacy against corruption and raising public awareness to strengthen capacity of the public to resist and prevent corruption;
- xiv. Expand the curriculum in the educational system to promote the values of honesty, integrity and respect for public property;
- xv. Create awareness on the evils of corruption among the population through civic education.

5. TRANSITIONAL JUSTICE, RECONCILIATION AND HEALING

Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the stakeholders agree to respect and uphold the following rights set out in the Bill of Rights of the South Sudan Transitional Constitution, 2011 and in UN General Assembly resolution 60/147 as elaborated upon in the United Nations' Principles on Impunity:

- a) Right to truth.
- b) Right to access to justice.
- c) Right to reparation and rehabilitation.
- d) Right to 'never again' or the guarantees of non-repetition.

5.1 The Stakeholders agree to establish processes and mechanisms for justice, accountability and reconciliation that shall include, but will not be limited to:

- I. A National Commission for Truth, Reconciliation and Healing, which may be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:
 - II. Establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;
 - III. Recording the experiences of victims;
 - IV. Investigating the causes of conflict and making recommendations to prevent repetition of conflict;
 - V. Facilitate local and national reconciliation and healing.

5.2 A body to investigate and prosecute individuals bearing the greatest responsibility for violation of international humanitarian law, and/or applicable South Sudanese law, committed since 15th December 2013. Such a body shall:

- I. Be established in cooperation with regional and international authorities particularly cooperate with the African Union Commission of Inquiry for south Sudan;
 - II. Be of hybrid nature involving both local and foreign investigators, prosecutors and judges;
 - III. Prioritize and fast-track the investigation and prosecution of those most responsible for atrocities and gross violations that constitute crimes under international humanitarian law, and / or South Sudan law;
 - IV. Not be impeded or constrained by prior statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law;
 - V. Be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.
- a) A Reparation Commission to assess the needs of victims, and develop and implement reparation programs consistent with the UN Basic Principles and Guidelines on the Right to Reparation.
 - b) Other bodies or process to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.

5.3 The Stakeholders agree that national legislation must be enacted within 6 months of the signing of this Agreement to establish the bodies referred to in sub-section 5.1 a) and b); and to operationalize such bodies within one month of the promulgation of such legislation.

5.4 The Stakeholders agree that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:

- a) Be independent and autonomous;
- b) Be fair and impartial;
- c) Employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity;
- d) Have the necessary investigative and other powers to complete their mandate; and that secrecy laws shall not apply to their investigations;
- e) Protect the dignity, safety and wellbeing of victims and witnesses.
- f) In addition to the above, the Transitional/ Interim Government shall undertake the following measures:
 - i. Launch programs for National reconciliation and Healing at national and state levels;

- ii. Involve Traditional Leaders in programs of reconciliation and healing;
- iii. Draw lessons from other experiences: local, regional and international;
- iv. Take measures to combat hate speech, derogatory ethnic slurs and stereotypes that tend to perpetuate ethnic hatred and undermine social cohesion of the people of South Sudan;
- v. Prohibit and punish individuals or groups including government owned and private media outlets who engage in incitement of hatred and propagating ethnic disharmony.

6. HUMANITARIAN ISSUES

The Stakeholders recognize the destructive impact of the war; acknowledge the massive displacement of the South Sudanese people; are aware of the disastrous economic, political and social consequences of the conflict for South Sudan and the region; and realize the devastation, loss of life and property; and instability the conflict has caused to South Sudan. The Stakeholders thereby agree to address the following:

- a) Humanitarian issues resulting from the conflict;
- b) Ensure unhindered humanitarian access and relief intervention to all conflict-affected areas;
- c) Institute programs for relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. In particular provide special programs for war/conflict-affected persons (children, orphans, women, widows, wounded, etc.) including reconstruction of war-affected areas.

The TGONU shall undertake the following:

- i. Ensure unhindered access for relief intervention to all areas by removing cumbersome red tape and instituting special fast track procedures for clearing relief materials and handling immigration procedures;
- ii. Appeal to UN agencies and other international agencies to provide emergency humanitarian assistance to the affected population;
- iii. Establish special fund for the relief, rehabilitation, repatriation and resettlement of IDPs and Refugees within three months of its establishment;
- iv. Initiate and implement special programs for conflict affected areas.

7. PERMANENT CONSTITUTION - PARAMETERS

- 7.1 To give effect to the principles set out in part 1, the Stakeholders hereby agree on the following parameters to guide a people-driven permanent constitution-making process. The ongoing Constitutional Review Process shall be reinvigorated to ensure inclusiveness and representation.
- 7.2 A process for producing an initial draft constitution including mechanisms for determining the leadership and other membership and decision making processes of the body that produces the initial draft shall be as follows:
- (i) A commission is appointed by the Executive after consultation with the political parties, civil society organizations and faith based groups for their views to prepare a draft constitutional text;
 - (ii) The commission makes wide consultation with the people and conducts civic education;
 - (iii) The commission then presents the draft Constitutional Text to the Executive accompanied by a report;
 - (iv) The draft constitutional text presented by the commission to the executive is then presented to the national constitutional conference for deliberation, modification and adoption; The adopted constitutional text by the constitutional conference is then presented by the Executive to the National Legislature or a Constituent Assembly for deliberation and adoption;
 - (v) The TGONU shall enact legislation to govern the constitutional making process in consultation with the stakeholders. The legislation shall embody inter alia the following:
 - Composition, leadership, decision making processes and functions;
 - Timeframe for the phases of the constitution making process and mechanisms;
 - Method of promulgation of the Permanent Constitution;
 - Key issues to be deliberated upon by the Conference;
 - Mechanisms for ensuring public education and consultation.

Principles and objectives:

The process shall have the objective of achieving a new constitution that addresses the following:

- I. Guaranteeing peace, national unity and territorial integrity of the Republic of South Sudan to safeguard the wellbeing of the people;

- II. Establishing a federal and democratic system of government that reflects the character of South Sudan in its various institutions taken together, guarantees good governance, constitutionalism, rule of law, human rights, gender equity and affirmative action;
- III. Promoting the people's participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power;
- IV. Respecting ethnic and regional diversity and communal rights including the right of communities to organize and participate in cultural activities and expression of their identities;
- V. Ensuring the provision of the basic needs of the people through the establishment of a framework for fair and even economic growth and equitable access to national resources and services;
- VI. Promoting and facilitating regional and international cooperation to ensure economic development, peace and stability, and to support democracy and human rights;
- VII. Strengthening and safeguarding national unity;
- VIII. Creating conditions for free exchange of ideas;
- IX. Committing the people of South Sudan to peaceful resolution of national issues through dialogue.

8. IMPLEMENTATION MECHANISMS

- a) Matrix and joint implementation mechanism;
- b) Activities, action plan, timeframe, etc.;
- c) Guarantors and Witnesses
- d) Monitoring, Evaluation and Follow up Mechanisms for Peace Agreement:
 - I. Independent mechanisms to monitor the implementation of the Peace Agreement shall be established. Its composition shall be made up of the members from stakeholders and members from the region and international community;
 - II. The criteria for the selection of such a body and what process of appointments and removals shall be agreed;
 - III. The body shall be responsible to manage and resolve conflicts over implementation or interpretation of the agreement;
 - IV. Individuals, groups and parties to the conflict shall be accountable for their actions. In this regard, those found responsible for atrocities and other crimes being investigated by AU

Commission of Inquiry for South Sudan, shall be removed or barred from the Interim Government;

V. The Stakeholders agree to establish a Code of Conduct binding on all parties to this Agreement, within 30 days of the signing of the said Agreement. The Monitoring, Evaluation and Follow up Mechanisms will monitor compliance with the Code of Conduct and report to the oversight mechanisms established in the agreement and to the Guarantors.

Security guarantee in the National and State Capitals

- I. Demilitarize Juba city, state capitals and major urban centres;
- II. Deploy UN and Regional Defence and Protection Force (DPF) to ensure, protection and safety of civilians and the government.

9. GUARANTORS OF THE AGREEMENT

IGAD, in collaboration with the International Community, shall guarantee the implementation of this Agreement by the Parties to the conflict in South Sudan.