



## A BRIDGING PROPOSAL

### TOWARDS THE OUTSTANDING ISSUES IN THE HIGH-LEVEL REVITALIZATION FORUM OF THE AGREEMENT ON THE RESOLUTION OF THE CONFLICT IN THE REPUBLIC OF SOUTH SUDAN

ADDIS ABABA, ETHIOPIA–21 MAY 2018

After eleven (11) months of intensive engagements and negotiations to revitalize the ARCSS as mandated by the IGAD Assembly of Heads of State and Government on 12 June 2017, ten (10) key Governance and Security issues remain outstanding. This proposal reflects a considered effort to identify middle ground between the different negotiating positions.

#### CHAPTER I: REVITALIZED TRANSITIONAL GOVERNMENT OF NATIONAL UNITY

##### 1. Principles of Governance for the Transitional Period

- 1.1. Governance during the Transitional Period shall be guided by the following principles and considerations:
  - 1.1.1. the necessity of renewing and strengthening the Transitional Government to reflect the diversity of South Sudan and to deliver the goals of the Transition;
  - 1.1.2. the imperative for inclusive responsibility-sharing, ensuring the equitable participation of oppositional entities, women, regions, and youth;
  - 1.1.3. the need to cooperate in the delivery of the goals of the Transition, and in the effective implementation of this Agreement;
  - 1.1.4. separation of powers and functions between the legislative, executive and judicial arms of government;

- 1.1.5. maintaining effective checks and balances in the exercise of executive power;
- 1.1.6. collegiality and effective coordination within the Executive, and particularly the Presidency;
- 1.1.7. ensuring competence and efficiency in the leadership of the Transition and in the delivery of public and social services;
- 1.1.8. the urgency of responding effectively to the popular demand for a Federal system of government by:
  - (a) accelerating the devolution of power and resources to local levels of government; and,
  - (b) undertaking effective consultations and preparations for adopting a Federal system for South Sudan in the Permanent Constitution; and,
- 1.1.9. the imperative of promoting dialogue, consultation and popular participation in key national decisions, while also ensuring the coherence and complementarity of such initiatives.

### **Structure of the Transitional Government**

2. The proposed structure of the Executive of the revitalised TGoNU shall be as follows:
  - (a) The President (TGoNU);
  - (b) The First Vice President (nominated by SPLM/A-IO)<sup>1</sup>;
  - (c) The Vice President (TGoNU);
  - (d) The Third Vice President (nominated by Other Parties & Entities (SSOA, FDs & OPP));
  - (e) The Ministers (42 ministries in 3 clusters); and
  - (f) The Deputy Ministers (15).

---

<sup>1</sup> SPLM/A-IO led by Dr. Riek Machar

2.1. The First Vice President, the Vice President and Third Vice President shall oversee the Cabinet Clusters as follows:

- (a) First Vice President, Governance Cluster.
- (b) Vice President, Economic Cluster.
- (c) Third Vice President, Services Delivery Cluster.

### 3. The Composition of the Government

3.1. The **Incumbent TGoNU**, comprising of: the former GRSS; former SPLM/A-IO (Taban Deng); and Other Political Parties allied to the GRSS;

3.2. The **SPLM/A-IO** (led by Dr Riek Machar)

3.3. The **Other Parties and Entities (OPE)** which includes the following: Former Detainees (FDs); Other Political Parties; and, the South Sudan Opposition Alliance (SSOA).

### 4. Responsibility Sharing

4.1. Pursuant to the mandate of the High-Level Revitalization Forum (HLRF), the imperative to achieve genuine inclusivity in the composition of the revitalized TGoNU, and thereby to enhance the visible representation of regions and communities; the parties shall make necessary adjustments to the power-sharing formula adopted in the ARCSS (2015), to better reflect the new realities in South Sudan and in particular, to ensure the inclusivity of the revitalized TGoNU.

4.2. In the re-allocation of responsibility, the following considerations shall apply:

- (a) the political complexion, and reach of a party within the country;
- (b) any shift in allegiances;
- (c) the emergence of new opposition entities;
- (d) the relative premium of the various high offices;
- (e) the inherent advantages of incumbency;
- (f) the need to ensure effective implementation of the Agreement by competent representatives; and,

- (g) the imperative to inspire confidence in the transitional government, particularly within the civilian population, including displaced persons and refugees.

#### **4.3. Allocation of responsibilities**

4.3.1. Given the current configuration of parties at the HLRF, and in line with the rationales specified above, the following allocations shall apply:

- (a) the TGoNU is assigned 55%;
- (b) the SPLM/A-IO is assigned 25%;
- (c) the OPE is assigned 20% (FDs: 5%; OPP: 5% & SSOA: 10%)

#### **5. Structure and Composition of State Governments**

5.1. No later than one month from the commencement of the Transitional Period, the leadership of the States shall be reconstituted.

5.2. The power-sharing ratio for the allocation of States Governors shall be follows:

- (a) the Incumbent TGoNU 65%;
- (b) the SPLM/A-IO 25%;
- (c) the OPE 10%.

5.3. The above ratio shall also apply to the State Council of Ministers.

5.4. In the nomination of Opposition candidates for gubernatorial positions in Greater Upper Nile, precedence shall be given to the SPLM/A-IO.

5.5. In the nomination of Opposition candidates for gubernatorial positions in Greater Equatoria, precedence shall be given to nominations by OPE.

#### **5.6. Inclusive Boundary Commission**

5.6.1. Immediately upon the signing of this Agreement, the revitalized TGoNU shall appoint an Inclusive Boundary Commission (IBC) to review the number and boundary of the States of South Sudan.

5.6.2. The membership of the IBC shall be drawn from eminent South Sudanese and representatives of the regional guarantors and international

community within JMEC, and shall be chaired by a Judge of the Supreme Court of South Sudan.

5.6.3. The IBC should complete its work within 180 days, and make recommendations on the number and boundary of States to be adjusted during the Transitional Period.

5.6.4. The recommendations of the IBC shall be binding on the revitalized TGoNU.

## **6. The Transitional National Legislature**

6.1. The Transitional National Legislature (TNL) shall consist of the Transitional National Legislative Assembly (TNLA) and the Council of States.

6.2. Within 90 days of the signing of this Agreement, the tenure of the sixty-eight (68) additional members of the expanded Transitional National Legislative Assembly (TNLA) pursuant to ARCSS 2015 shall be terminated.

6.3. The TNLA shall be further expanded to four hundred forty (440) members and reconstituted as follows:

- (a) The three hundred and thirty-two (332) members as at 15 December 2013;
- (b) The additional One hundred and Eight (108) members shall be appointed according to the following criteria:
  - SPLM/A-IO seventy (70) members; and
  - Other Parties and Entities: thirty-eight (38) members.

6.4. The duration and term of the expanded and reconstituted TNLA shall run concurrently with that of the Revitalised TGoNU, until such time as Elections are held.

6.5. The selection of the Speaker of the TNLA, who shall hail from the Equatoria and nominated by the TGoNU, shall be conducted once the expansion of the membership of the Assembly is complete.

6.6. During the Transitional Period, there shall be established the office of the Deputy Speaker of the TNLA.

- 6.7. The Deputy Speaker, shall be nominated by SPLM/A-IO, once the expansion of the membership of the Assembly is complete.
- 6.8. The Speaker and the Deputy Speaker shall serve for the duration of the Transitional Period. In case the Speaker or the Deputy Speaker is for any reason unable to continue in office, they shall be replaced by selection based on the same criteria above.
- 6.9. Decisions in the TNLA on matters pertaining to this Agreement shall be by consensus and failing consensus, by a two thirds (2/3) majority of all the members.
- 6.10. Decisions in the TNLA on other matters not related to this Agreement shall be by consensus and failing of which by simple majority.
- 6.11. The functions and mandate of the TNL shall remain as stipulated in the Transitional Constitution of the Republic of South Sudan, 2011 as amended in 2015, unless otherwise specified by the terms of this Agreement.
- 6.12. In the conduct of its business, the TNL shall at all times support the implementation of this Agreement and enact the necessary legislation to facilitate the transitional processes and reforms stipulated in this Agreement.

#### **Council of States**

- 6.13. The composition, functions and mandate of the Council of States shall continue as provided under the TCRSS 2011, for the duration of the Transitional Period, until Elections are held.

#### **7. Question of System of Government, Federalism:**

- 7.1. The ARCSS already recognises that a federal system of government is a popular demand of the people of South Sudan, and that there is a need to reflect this demand by way of devolution of more power and resources to lower levels of government, and to initiate preparations for the adoption of a federal and democratic system of government within the Permanent Constitution-making process.
- 7.2. Accordingly, the IBC shall also consider the question of the enhancement of devolution and development of federal system and shall make its recommendations to the Ministry for Federal Affairs, to the National

Constitution Review Commission (NCRC) or any other body charged with collecting information relevant to the making of the permanent constitution.

### **Other Proposals to be considered**

#### **8. Transition Facilitation Council**

- 8.1. There shall be established a **Six Member** High-Level Transition Facilitation Council (TFC) which shall be drawn from eminent persons mandated to support the implementation of the Agreement.
- 8.2. The Council shall be an exclusively national body, composed of South Sudanese of high moral standing at least two of whom shall be women. Its composition shall be reflective of the diversity of the nation.
- 8.3. Members of the TFC shall act individually and collectively to facilitate and encourage the TGoNU, mobilise and sensitise the people of South Sudan generally to achieve the goals of the Transition and uphold cohesion of the nation and may be called upon to assist in the resolution of any problems or difficulties that might arise within the Presidency.
- 8.4. The TGoNU shall facilitate the TFC and provide it with a secretariat within the Office of the President. The TFC shall also receive status reports and briefings from the JMEC, and CTSAMM, on the implementation of this Agreement and undertake follow up with relevant authorities as appropriate.
- 8.5. Members of the TFC shall be appointed by the Presidency on the recommendation of the Council of Ministers.

#### **9. Displacements from Positions - Remedies**

- 9.1. Where, as a consequence of the allocation of positions under this Agreement a post-holder is displaced from a post, the Transitional Government shall make every effort to find an alternative position for that person, including in the reconstituted boards and commissions as appropriate.
- 9.2. Affected persons may include:
  - (a) a member of the Executive;
  - (b) a Governor or other office holder in a State; and

(c) a member of the TNL.

9.3. In the event that a person cannot be accommodated in a suitable alternative position, the Transitional Government shall endeavour to make an appropriate ex gratia payment or form of compensation to that person.

9.4. The Transitional Government shall establish a Fund or modality for the making of such payments.

#### 10. **Benefits and Standing of Former Leaders**

10.1. Within 30 days of the signing of this Agreement, legislation shall be introduced in the TNLA to make adequate provision for the benefits, emoluments and standing of former leaders.

10.2. Legislation shall provide for benefits of a former leader, including an office, staff, protection and allocation of sufficient resources commensurate to their standing as leaders.

10.3. A former leader shall be facilitated by the TGoNU to play a consultative and advisory role in supporting the goals of the Transition, particularly the pursuit of reconciliation, healing and nation-building.

10.4. The Executive of the Transitional Government will adopt procedures and processes for enabling a former leader to fulfil this role.