

Discussions with TGoNU – led by Ambassador Kongit

Structure of TGoNU:

1. Retain status quo and the incumbent President, 1st Vice President, and Vice President.

a) Office of the President:

- Incumbent President
- Incumbent First Vice President
- Incumbent Vice President
- 3 Assistants to the President

2. **Creation of the Office of additional Vice President**

As a compromise, TGoNU will accept to create a new position of Vice President which would go to SPLM/A-IO (led by Dr Riek Machar), but would not be filled by Dr Machar. TGoNU would continue to reflect on what other appropriate role Dr Machar could play during the Transition.

3. **Composition of the Executive**

- Incumbent President
- Incumbent First Vice President
- Incumbent Vice President
- 3 Assistant Presidents (1 to TGoNU, 2 to Opposition, one of whom shall be a woman)
- The Ministers

4. **Ministerial Clusters:** TGoNU to maintain the Three Clusters (Governance, Economy and Service) each headed by a Vice President and deputised by an Assistant to the President.

5. **Prime Minister etc:** TGoNU rejects the creation of the position of a Prime Minister, a technocratic or hybrid Government

6. **System of Government, Federalism:**

TGoNU rejects immediate introduction of a Federal system as being inconsistent with the ARCSS; however:

- TGoNU is open to making a presentation to the HLRF on work currently being done to initiate a Federal system of Governance, as provided for in the ARCSS, as part of the Permanent Constitution –making process.
- The issue of Federalism should continue being discussed during the Transition period
- The people of South Sudan are also making their views known through the National Dialogue process. TGoNU can also facilitate an opportunity to National Dialogue leadership to explain that process.

7. **Composition of Executive:**

TGoNU will consider slight reduction of its allocation of the ratio 80:20 ratio for the further inclusion of the Opposition

- (i) **Ministries:** Retains its proposal of 42 to be allocated per the above 80:20 ratio
- (ii) **Deputy Ministers:**
 - Increase number of Deputies to 15 and apply the ratio of 80:20.
 - TGoNU suggests that a Deputy Minister should not necessarily belong to the same party/entity as the Minister.

8. **On TNLA (the Parliament):**

- TGoNU is not prepared to displace current members, as this would be politically untenable and counter-productive.
- However, the TGoNU proposes limited increase of the 400 to 440 with the additional 40 being allocated to the opposition for inclusivity.

9. **Number of States**

- The question of the number of states is for the people of South Sudan to decide. TGoNU expresses a strong popular demand for the creation of even more States.
- Therefore the views of the people of South Sudan should be sought on the matter.

- TGoNU invites IGAD to consult the people of South Sudan to ascertain their views on the question of States
- TGoNU is open to assigning to a National Border Commission the task of reviewing and addressing issues of State border disputes.

10. Power-sharing in states: TGoNU maintains the ratio of 85:15 to apply to the all the States.

Discussions on Security

1. Integration of Forces/One National Army

TGoNU proposes 120 days (the Pre-Transitional Period) for the completion of integration of forces. The Transitional Period should commence with One Army.

2. Security for Juba during Transition and Security of Opposition leaders

- TGoNU maintains that the government will continue to be responsible for protection of Juba
- TGoNU is open to Third Party protection that is satisfactory to the Opposition, and will cooperate with facilitating the practical arrangements for this.

3. Demilitarization of Civilian Centres:

- This is unrealistic because forces historically co-exist with the civilian population, often along with families; the better option is to enforce strict regulations on unnecessary carrying of arms

4. Cantonment of forces:

- Only Government forces previously involved in combat should be barracked and all Opposition forces should be cantoned.

5. Security Sector Reform/New Security Arrangements.

- TGoNU will accept only reform of the security sector – not disbandment or establishment of a new army and other security agencies.

GOVERNANCE

Summary of SPLM/A-IO Positions
May 11, 2018

SPLM/A- IO Concerns

1. The SPLM/A -IO raised the following issues which they feel the IGAD Council of Ministers is not taking seriously and requested that they be addressed so as to create a conducive environment for the commencement of discussion on 17 May:
 - COHA violations must be resolved
 - Principles submitted in February must be acknowledged by IGAD
 - CTSAMM investigations must be improved and reports published.

Composition of the revitalized Transitional Government (groups to participate in TGoNU)

2. The SPLM/A - IO proposed that the TGoNU, SPLM-IO, SSOA and Other Political Parties invited by IGAD at the HLRF shall participate in the Revitalized Transitional Government.

Structure of the revitalized Government (including the question of federalism/devolution);

3. The SPLM/A - IO proposed federalism as a system of governance during the Transitional Period.
4. On the Executive of the revitalized Transitional Government, the SPLM/A - IO proposed that the Presidency shall consist of a **President** nominated by the current TGoNU but not the incumbent; a First Vice President nominated by SPLM/A -IO; and a Vice President nominated by OPP and SSOA. It was also proposed that the powers of the members of the Presidency shall remain as stipulated in the Agreement of 2015. However, article 9.1.3, should read....80% instead of 67%.
5. On the Cabinet, SPLM/A - IO proposed to retain the current 30 ministries, share on a ratio of 40% for SPLM/A - IO: 40% for current TGoNU: and 20% for SSOA and Other Political Parties. SPLM/A (IO) proposes the responsibility sharing ratio shall also apply to Commissions, Authorities and Parastatals.

Responsibility Sharing allocations

6. The SPLM/A - IO proposed that responsibility sharing formula based on the following ratio: power sharing ratio: SPLM/A-IO = 40%; TGoNU = 40%; SSOA and OPP = 20%. These ratios will be applied at all levels of government structures.
7. They also suggested that the responsibility sharing formula shall also be applied to boards, commissions and chairpersons of parliamentary committees.

Number of States

8. The SPLM/A - IO proposed that the 10 states agreed to in the 2015 Agreement should remain.
9. They proposed to keep the State Executive as it is but apply the proposed responsibility sharing formula.
10. The SPLM/A- IO proposed to complement the State Assembly by having House of Nationalities (Upper House at state level) comprising representatives of the different communities in the state tasked with promoting healing, reconciliation (peaceful coexistence among communities), communal land and boundaries, cultural heritage and customary laws.
11. On Local Government, SPLM/A - IO proposed that commissioners and councilors be elected. However, during the Transitional Period, they shall be appointed in accordance with the above responsibility sharing ratio.

Size and composition of the Legislature

12. The SPLM/A - IO proposed that the current parliament be dissolved and a new transitional assembly be reconstituted with 170 members representing 170 constituencies, and the responsibility sharing formula of 40; 40; and 20 be applied. However, the SPLM/A - IO expressed flexibility on the size of the legislature by further proposing a parliament of 220 members.

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13. On the Council of States the SPLM/A -IO would like to retain 50 seats as the 2015 Agreement, but proposes the reconstitution of the Council of States in accordance with the above responsibility sharing formula.

SUMMARY OF SPLM/A - IO POSITIONS ON SECURITY

Concerns

1. The SPLM/A -IO raised concerns regarding JMEC's planned Plenary Meeting planned for 14 May. They noted that the COHA stated that JMEC would be reconstituted during the HLRF, but they have heard that that JMEC will be convening a Plenary next week. They consider this a violation of the COHA, and hence they will consider JMEC decision coming out of the Plenary null and void. They feel that the JMEC plenary scheduled for Monday would undermine the HLRF process planned for 17 May, therefore it is suggested that the JMEC Plenary should wait until the revitalization.
2. Violations of the COHA in Southern Unity State (Leer and Mayedit), WBEG (Raga), Upper Nile State (Pagak)

Agenda

- Principle of Reunification
- Security of all citizens in South Sudan including VIPs
- Scope of Cantonment
- Establishment of New Security Sector
- Demilitarization of Civilian Centers

Principle of Unification of Forces

3. The SPLM/A-IO proposes that the SPLA and other security services are not national in character and are tribal and unprofessional. Therefore all military forces including the SPLA-IO must be disbanded and cantoned, and then select those qualified to form a new army and other national security services.
4. SPLM/A -IO also stressed that during the transitional period, the current security services cannot create a conducive environment for elections since they have been involved in human right abuses and hence the need to screen those need to form new security services.

Timeframe for Establishment of New Army

5. The SPLM/A-IO proposed 18 months as sufficient time to complete the establishment of the new army. They also proposed that the first batch of police forces can be rollout in 12 months. They argued that planning for movement of force in 2016 during the implementation of the 2015 Agreement took 3 months to complete the first phase that required the transportation of 1370 SPLA-IO forces.

With more groups in the field, the movement of troops to cantonments would require more time and hence 18 months is considered practical.

6. In addition, they noted that the timeframes for the unification of forces should not be tied to the pre-transition period since some activities might be completed during the pre-transition period, transition and after transition.

Security of Civilians and VIPs

7. SPLM/A-IO proposed that the protection of citizens including VIPs be provided by the UNMISS/RPF during the transition until the establishment of security services. They highlighted the importance of a ceasefire and IGAD to enforce the ceasefire and the cantonment of forces.

Establishment of New Security Sector

8. The SPLM/A-IO proposed that the establishment of a new security sector be based on SDSR Board outcome which shall include objective criteria for the selection of candidates for the new security services. They also proposed that the new army be composed of equal numbers from each party, and the transitional government shall allow a 20% new recruits.

Demilitarization

9. The SPLM/A-IO proposed that all forces be cantoned in order to create a secure environment for civilians, and that all cantonment be sited far away from civilian centers and in accordance with the cantonment criteria stipulated in the 2015 Agreement. They also emphasized the importance of moving weapon storages and weapons out of civilian centers.

HIGH LEVEL REVITALIZATION FORUM

**Summary of consultations with South Sudan Opposition Alliance
on
HLRF Outstanding Issues**

11-12 MAY 2017

Addis Ababa, Ethiopia

A.

INTRODUCTION

- The South Sudan Opposition Alliance (SSOA) delegation expressed optimism in peaceful resolution of the conflict in South Sudan. They also expressed concerns about process issues that they believe need to be resolved so that they do not potentially become a stumbling block in the revitalization process.
- In that regard, the delegation highlighted the following five main concerns:
 - The core concern relates to trust deficit. The SSOA cited the continued escalation of violence in South Sudan since the parties signed the Cessation of Hostilities (CoHA) in 2017 contrary to what the Agreement was intended to achieve. Besides, there has been lack of adherence to implementation of some provisions of the ARCSS. These are some of the issues which undermine trust among the parties.
 - The second concern relate to the question of legitimacy of the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) that is to be revitalized given the emerging political development. The delegation further noted that some of the Parties to the ARCSS are now not part of the Transitional Government of National Unity (TGoNU), with the opposition party that claimed to represent SPLM/A-IO (Taban) has now dissolved itself and reunified with the SPLM - IG. Practically, the SPLM/A-IO is not in TGoNU and so are the SPLM-Leaders Former Detainees who are largely not in government. To that end, the SSOA wondered whether the TGoNU still exist.
 - The third concern regards the delayed submission of the Draft Constitutional Amendment Bill (2017) to the Transitional National Legislative Assembly (TNLA) for ratification. The delegation's main concern relate to whether the timing of the submission of the Draft Amendment to the TNLA would not undermine the ongoing HLRF.
 - Fourth, is the concern over justification for assigning responsibilities to some South Sudanese individuals currently under targeted sanctions as this encourages impunity. E.g. Chief of Defence Forces.
 - Fifth, the SSOA argues that to demonstrate trust building among the parties the TGoNU should also sign the Declaration of Principles.
 - As a way forward the SSOA recommends that IGAD should consider to re-evaluate the ARCSS as is.

A. OUTSTANDING GOVERNANCE ISSUES

a) Composition of the Executive

- SSOA contends that there is need to define the stakeholders¹ who will

take part in the institutions in the responsibility sharing. In addition, the principle of inclusivity in the revitalization is both process and position based.

- In the first option of a lean technocratic government, members of the Executive are to be non-partisan. The technocrats would be selected by stakeholders and would be ineligible to contest elections immediately at the end of the Transitional Period.
- As for the lean hybrid government, the politicians would be selected by their respective parties and the technocrats would be selected in same way as in the first option.
- Regarding the Presidency, it is to comprise five members with rotational Presidential Council. Three of the five representing three regions, one will represent women and the other Civil Society. The Executive is to be led by an Executive Prime Minister with two Deputies, all representing the three regions.
- Number of Ministers: 18 plus a Prime Minister.

b) Structure of government

- SSOA proposes a federal system of government during the transitional period through devolution of power and resources to the states, as contained in the preamble of the ARCSS.
- It further observes that in the ARCSS: a) excessive power was given to the protagonists; b) too much power were in the hands of the president; c) implementation of the Peace Agreement would not functional well as long as we rely on power sharing. This is because transitional constitutional holders are likely to focus primarily in preparing for elections at the end of the Transitional Period.
- SSOA restated its position of having two options: technocratic government and a hybrid government. The presidency is to comprise three- five members a rotational Presidential Council selected from among three regions, and will be ceremonial. The Executive is to be led by a Prime Minister, and two Deputies. The technocrats are to be nominated by the Parties to the Agreement.

c) Responsibility sharing

- The power sharing formula in the ARCSS that negatively tilted powers to two warring parties should be avoided during the revitalization.
- However, the delegation suggests that responsibility sharing should be applicable at the level of legislature at all levels.

1 SPLM/A-IO, SSOA, TGoNU, National Alliance, National Agenda, Umbrella...

- The Executive PM will be responsible for the designation of the various cabinet portfolios to the technocrats.
- The percentage of responsibility sharing is still a work in progress and will be determined by the definition of who the parties are.

d) Number of states

- The SSOA's position is that the 10 states should be maintained and that the issues pertaining to the number of states would be reviewed under the Permanent Constitution-Making process. During the Pre-Transitional Period (90 days), the status quo continues until a new Transitional Period commences.

e) Transitional National Legislative Assembly

- SSOA proposes a reconstitution of the current National Legislative Assembly (NLA) to 170 members, with flexibility to an expansion.
- At the national level, the delegation also proposes an establishment of the House of Nationalities. This would address the concerns of underrepresentation in government as the feeling of being left out could potentially be conflict driver. The membership should be 64.
- At the state level, there will be State legislatures at the 10 states and then local legislatures at the local levels (counties as on 9 January 2005). The responsibility sharing will be the same as at the TNLA.

B. OUTSTANDING SECURITY ISSUES

a) Timeframe for reintegration/unification of forces and approach to the formation of one national army

- This process can be completed within 18 months. The formation of one national army and other security organs should reflect the national character and diversity (ethnicity, geography and region) of the country.
- A new national army and other security organs should initially be drawn from the forces in cantonment/ encampment/ barracks. The second criteria for recruitment is to be determined by the SDSR Board.

b) Security of Juba

- The delegation proposes that the security of Juba should not be left to any party because of the recent past experience in the capital. The delegation further suggests that the RPF with support from a new Joint Integrated Police (JIP) should provide security in Juba.
- Security should be guaranteed for all by a neutral third party/RPF.
- All military forces within Juba should be deployed outside a radius of 90km from the centre of the national capital.

c) Demilitarization of civilian centres

- There is need to demilitarize all civilian centres (capital of the states, populated centres which will be agreed upon by the parties). However, special arrangements would be made for areas with community conflicts and government installations. In the latter cases, the JIP should be deployed to provide the requisite security.
- During the Transitional Period, a comprehensive programme for disarmament should be undertaken to rid the community of illegal arms.
- The military should be barracked or put in bases where they belong.

d) Cantonment of forces

- It is logical to canton/ encamp/barrack all armed forces to enable taking stock of arms and troops
- The Joint Defence Board would be responsible for securing territorial integrity to address possible security vacuum that may arise as a result of cantonment/encampment/barracking
- Cantoned forces will require appropriate logistical support until the time when they are decommissioned/reintegrated into the army

e) Security sector reform or establishment of a new security arrangements

- Given the current security context in South Sudan, there is need to establish a non-partisan, non-tribal and balanced national security sector. This therefore calls for a restructuring/formation of a national security sector.

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