

IGAD

INTERGOVERNMENTAL AUTHORITY
ON DEVELOPMENT



AUTORITÉ INTERGOUVERNEMENTALE
POUR LE DÉVELOPPEMENT

DRAFT II

FRAMEWORK FOR POLITICAL NEGOTIATIONS TOWARD A SETTLEMENT OF THE CRISIS IN SOUTH SUDAN

1. AGREED PRINCIPLES

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

The following Documents shall form the basis of Terms of Reference (TOR) for the political Negotiations;

- IGAD Agenda Phase II Session III of the 28th April 2014.
- Agreement to Resolve the Crisis in South Sudan, Addis Ababa, 9th May 2014 as signed by the Principals.
- Working Committee for South Sudan Peace Process dated 6th May 2014.
- Agreement on Recommitment on 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 (in Opposition) on 6th May 2014.

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

Negotiate a transitional mandate and powers of a TGONU that will oversee government functions during a transitional period to implement critical reforms that will be negotiated through the peace process;

Ensure the inclusion of all South Sudanese stakeholders in the peace process, and the negotiation of a TGONU, in order to ensure broad ownership of the agreed outcomes; stakeholders include: the two direct negotiators (the GRSS and the SPLM/A in opposition), and others such as the SPLM leaders (former detainees), political parties, civil society, and faith-based leaders;

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

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

2. PARTICIPATION

South Sudanese stakeholders mentioned in the Agreement shall participate in the peace Negotiations as stipulated in the Agreement to Resolve the Crisis in South Sudan, 9th May 2014:

- 2.1 The number of the participants shall be discussed in consultations between the IGAD mediators and the Stakeholders;
- 2.2 The IGAD Mediators shall table the Draft Framework in a meeting that includes all stakeholders for consideration and endorsement as stipulated in the Agreement to Resolve the Crisis in South Sudan, 9th May 2014.

3 THE TRANSITION PROCESS

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

3.1 There shall be a Pre-Transitional Period whose commencement and duration shall be determined through negotiations.

3.2 The Pre-Transitional Period:

- a) The Peace Agreement negotiated shall be presented to the National Legislature for adoption;
- b) A representative National Constitutional Review Commission shall be established during the Pre-Transitional Period whose task shall be the drafting of a Legal and Constitutional Framework for the incorporation of the Peace Agreement into the current Transitional Constitution of the Republic of South Sudan, 2011, by the National Legislature;
- c) The amended Transitional Constitution shall not be altered or repealed during the transitional period except by way of special procedures and qualified majorities in order that the provisions of the Peace Agreement are protected, and shall form the basis upon which South Sudan will be governed during the Transitional Period;
- d) The amended Transitional National 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 pillars of government;
- e) The TGONU and its institutions as provided for in the Peace Agreement shall be established and come into existence with the commencement of the Transitional Period;

- f) Independent mechanisms to implement and monitor the Peace Agreement shall be negotiated.

3.3 Transitional Period:

- a) The TGONU will commence at the end of the Pre-Transitional Period and shall last for the duration agreed to in the Peace Agreement;
- b) During the transitional period, institutional reforms shall be carried out and implemented in the Civil Service, Economic and Financial Sector, Service Delivery, Reconstruction and Development, Media, Natural Resource Sector, Physical Infrastructure, Foreign Policy, Commissions, National Security Agencies, Police, prisons, Wildlife services, civil defence, National Elections Commission, National Bureau of Census and Statistics, and Social Services Sector, and review of the Political Parties Act, as negotiated in the Peace Agreement;
- c) During the Transitional period, census and elections shall be organized by the TGONU;
- d) The stakeholders shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement.

3.4 Transitional Government of National Unity (TGONU)

- a) There shall be established a broad-based TGONU at National level and corresponding government structures at State and local levels;
- b) The nature and the structure of Government at each level shall be democratically constituted.
- c) The different pillars (Executive, Legislature and Judiciary) of government as reformulated for the transitional period shall

- operate independently and ensure that the principle of checks and balances is upheld;
- d) The TGONU shall exercise such functions and pass such laws as must necessarily be exercised by a sovereign state at national level;
 - e) The nature of the leadership of the TGONU shall be negotiated by the stakeholders and shall form part of the peace agreement.

3.5 Participation in National, State and Local Governments

- a) The people of South Sudan in their diversity shall be entitled to 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 agencies, organs, departments and ministries without prejudice to merit.

3.6 Memorandum/Charter of Political Understanding/Programme

- a) The stakeholders shall, in addition to the institutional and other constitutional arrangements, endeavour to conclude a memorandum or charter in which mutually agreed political understandings will be recorded regarding: their commitment to collectively implement the Peace Agreement; and a political programme on which government will be based during the Transitional Period; and any other matters of mutual interest.

4 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; realize the devastation, loss of life and instability the conflict has caused to South Sudan, and thereby agree to address the following:

- a) Humanitarian issues relating to the aftermath of the conflict;
- b) Ensure unhindered access and relief intervention to all areas;
- c) Institute programmes of relief, rehabilitation, repatriation and resettlement of IDPs and refugees. Special programmes for war/conflict affected persons (children, orphans, widows, wounded etc.).

5 NATIONAL RECONCILIATION AND HEALING

Appreciating that the people of South Sudanese thirst for peace, justice, reconciliation and healing, the stakeholders agree to establish processes and mechanisms for accountability that shall include but will not be limited to:

- a) A National Commission for Reconciliation and Healing;
- b) Facilitation and cooperation with the Africa Union Commission for Inquiry and any other tribunal established;
- c) Support the role of justice be it conventional or traditional.

6 PERMANENT CONSTITUTION

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:

- 6.1 During the Transitional Period the on-going Constitutional Review Process shall be reinvigorated and the composition of the National Constitutional Review Commission (NCRC) shall be reviewed to ensure inclusiveness and representation as shall be negotiated in the Peace Agreement;
- 6.2 The stakeholders shall negotiate the framework for the National Constitutional Conference, which shall include definitions of the system of governance appropriate for South Sudan (presidential or parliamentary/federal or confederal, unitary or decentralized, etc.).
- 6.3 The Peace Agreement Shall;

- a) Establish the composition and timeline for the National Constitutional Conference
- b) Set mechanisms and procedures for promulgation of the permanent Constitution;
- c) Review timelines of the NCRC in light of the transitional arrangements.

7 IMPLIMENTATION MECHANISMS

- a) Matrix and joint implementation mechanism;
- b) Activities, action plan, Timeframe etc,.

17 May 2014