



Key Provisions and Justification for the Agreement on the Resolution of the Conflict in the Republic of South Sudan

The *Agreement on the Resolution of the Conflict in the Republic of South Sudan* (the 'Agreement'), comprising a PP page text and PP page implementation matrix, offers a comprehensive, balanced compromise settlement to end the civil war in South Sudan, ongoing since December 2013, and institute transitional arrangements sufficient to consolidate peace and stability for all South Sudanese.

To be implemented over a period of 33 months, the Agreement is divided into 8 chapters, covering the six thematic areas negotiated over the past 14 months: transitional governance arrangements; permanent ceasefire and transitional security arrangements; humanitarian assistance and reconstruction; resource, economic and financial management; transitional justice, accountability, reconciliation and healing; and parameters for the permanent constitution making process.

In addition to the four negotiating Parties: the Government of the Republic of South Sudan (GRSS), the Sudan Peoples' Liberation Movement/Army in Opposition (SPLM/A (IO)), the SPLM Leaders (Former Detainees (FD)) and Other Political Parties, the Agreement will be open for signature by other South Sudanese stakeholders, to provide for South Sudanese society to demonstrate popular support for the terms of the Agreement.

The Agreement also provides for the establishment of a robust oversight mechanism, known as the Joint Monitoring and Evaluation Commission (JMEC), with powers to oversee implementation and take corrective action in the event of non-compliance with the terms of this Agreement.

Transitional Governance Arrangements (chapter I)

Broad based and inclusive: The Agreement provides for a broad-based, all-inclusive Transitional Government of National Unity (TGoNU), comprising the four negotiating Parties: the GRSS, the SPLM/A (IO), the SPLM Leaders (FD) and Other Political Parties.

Tasks and term: The TGoNU will be in office for 30 months, implement reforms, and lead South Sudan to general elections. To initiate the TGoNU, a 3-month Pre-Transition will commence on signature of the Agreement, to complete the tasks necessary to operationalize the TGoNU.

Compromise on power sharing: The Agreement provides for the former GRSS to maintain a majority in the legislature, the positions of President and Vice President and 53 per cent of ministerial portfolios; the SPLM/A (IO) the second-largest share of seats in the legislature, the new position of First Vice President and 33 per cent of ministerial portfolios; and the SPLM-FD

and Other Political Parties allocated 14 per cent of ministerial portfolios and representation in legislative institutions. Decision-making in the institutions of TGoNU (Council of Ministers, TNA etc.) shall be by consensus, simple majority and on matters affecting the Agreement by two thirds or 67%.

Schedule of powers: The incumbent President shall serve as President and the Executive Head of State for the Transition Period. The powers, functions and responsibilities of the President, the First Vice President and the Vice President will be clearly defined. In the event of disagreement on decision-making, there are clear procedures to break the deadlock. The Agreement extends the term of the incumbent President, vice president and for the 7 State Governors of states not affected by conflict either until the end of the Transitional Period or an elected government is in place.

Expansion of the National Legislature: Expanded to incorporate additional members from SPLM/A (IO) and the Other Political Parties for the duration of the Transition. The term of the current Transitional National Assembly (TNA) shall be extended as per the term of TGoNU; and expanded from 332 to become 400. The SPLM/A-IO shall take 50 members while the other political parties 17 and the SPLM Leaders (FDs) take 1 of the added members of TNA. Members of the National Assembly who may have been previously dismissed shall be reinstated. The same shall apply to any members of the Council States.

The Judiciary shall be reformed to ensure its independence; and, subscribe to the principle of separation of powers. The judicial Service Commission shall be reformed.

Arrangements for states most affected by conflict: In Unity, Upper Nile and Jonglei, state governments will be reconstituted to ensure the reform of governance in these areas. The State Council of Ministers in the States of Jonglei, Unity, and Upper Nile shall be reconstituted and appointed at the beginning of the transition, and not later than a month, as per the following power sharing ratios: GRSS: thirty-three (33) per cent; SPLM/A-IO: fifty-three (53) per cent; SPLM Leaders (Former Detainees): seven (7) per cent; Other Political Parties: seven (7) per cent.

National elections: organized by a reconstituted elections commission, and held 60 days before the end of the TGoNU.

Permanent Ceasefire and Transitional Security Arrangements (chapter II)

Terms for a Permanent Ceasefire: to come into effect within 72 hours of the Agreement and lead to the withdrawal of all allied foreign forces and militias present in South Sudan. All forces previously in combat will be separated, assembled and cantoned in designated areas, according to a precise and rigorous timetable, with priority being given to the areas most-affected by conflict.

Unification of Security Forces: The TGoNU shall within 18 months of the Agreement, complete the unification of security forces with national army and security forces fully constituted, unified under a single command. Until such unification is completed the President of South Sudan and the Chairman of the SPLM/A-IO shall be commander –in- chief of their respective forces; and, the Chair and Deputy of the National Defence Council and National Security Council respectively to facilitate unification process.

Monitoring the Permanent Ceasefire: The IGAD Monitoring and Verification Mechanism, which has been monitoring the Cessation of Hostilities, will become the Ceasefire and Transitional Security Arrangements Monitoring Mechanism, and comprise representatives from across South Sudanese society, as well as regional and international membership.

Demilitarizing the national capital: The National Capital Juba shall be demilitarized within the Pre-Transition Period (within 90 days of the signing) of the Agreement in order to create conducive conditions for the formation of the TGoNU and the return of the SPLM/A-IO and SPLM Leaders (Former Detainees) to Juba. Consequently, Juba shall be designated as a special Arrangement Area (SAA). Third party security units under a UN, AU or IGAD mandate will provide protection in Juba, and any other location identified and agreed to by the Parties, for the term of the TGoNU.

Reforming the security sector: A comprehensive Strategic Defence and Security Review will be convened to examine the requirements for South Sudan's future national military and determine the process of security sector reform and professionalization.

Unifying the forces and interim command arrangements: All security forces will be unified within a single command within 18 months of the signature of the Agreement. Until unification is complete, a temporary joint command between the GRSS and SPLM/A (IO) will ensure coordination between forces and ensure the Permanent Ceasefire is respected.

Humanitarian Assistance and Reconstruction (Chapter III)

Commitment of the warring Parties: The warring Parties commit themselves to creating an enabling political and legal environment for humanitarian action. The TGoNU shall institute programs of relief, repatriation, resettlement and reintegration and rehabilitation of IDPs in collaboration with relevant agencies.

Voluntary return of the displaced: All displaced persons (refugees and IDPs) will be enabled and facilitated to voluntarily return home. Special services in health and education will be offered to conflict-affected populations (special consideration to conflict-affected persons children, orphans, women, widows, war wounded, etc.) to ensure their rehabilitation.

Rebuilding conflict-affected areas: The TGoNU and international partners, to rebuild infrastructure in the most conflict-affected areas in the provision of public service delivery, including access to health and education services, will establish a Special Reconstruction Fund. The TGoNU will dedicate a minimum of US\$100m of its general budget to the Fund per annum, in addition to international pledges. A Board with national and international participation will administer the Fund.

Resource, Economic and Financial Management Arrangements (Chapter IV)

Key institutional reforms: The TGoNU shall undertake legal and institutional reforms of key institutions in terms of leadership, composition, independence, powers, functions and operations. The Ministry of Finance, the Ministry of Petroleum, the National Petroleum and Gas Corporation, the Bank of South Sudan, the Anti-Corruption Commission and the National Audit Chamber will be reformed to ensure sound management of the economy, and in particular the petroleum sector, and lead to long-term macroeconomic stability in South Sudan.

Managing oil revenue: The TGoNU shall ensure that oil revenue funds including the Oil Stabilization Account, Future Generations' Fund shall be prudently managed in accordance with the revised Petroleum Act, 2012 and the Public Financial Management and Accountability Act, 2011.

New institutions established: Including a National Revenue Authority and a Public Procurement and Asset Disposal Authority, to improve the stewardship of national resources.

Economic oversight measures: An Economic and Financial Management Authority (EFMA), which will provide overall oversight of economic and public financial management, and act to ensure transparency and accountability in the petroleum sector, in public contracts and concessions and budgetary and public expenditure. An international advisory committee, chaired by the World Bank and involving other international and regional financial institutions, will support the EFMA.

Transitional Justice, Accountability, National Reconciliation and Healing (Chapter V)

Truth, reconciliation and healing: Recognizing the need for national reconciliation and healing, the TGoNU will establish an independent national commission for truth, reconciliation and healing, which will establish an accurate and impartial historical record of human rights violations, abuses of power committed by state and non-state actors, identify victims and perpetrators, recommend legal and institutional reforms and lead efforts to facilitate local and national reconciliation. Commissioners will be appointed from South Sudan and other African states.

Justice and accountability: Determined to end impunity, the TGoNU, the African Union and the United Nations will jointly establish an independent hybrid, judicial institution, to be known as the Hybrid Court for South Sudan (HCSS) through a Memorandum of Understanding (MoU) with the TGoNU, the African Union and the United Nations.

The HCSS will have jurisdiction with respect to genocide, crimes against humanity, war crimes and other serious crimes under international law, committed since 15 December 2013. Judges and staff of the HCSS will be selected and appointed by the Chairperson of the African Union and the Secretary-General of the United Nations. The Chairperson of the African Union and the Secretary General of the United Nations shall determine the location of the HCSS.

Permanent Constitution Making Process (Chapter VI)

South Sudan will adopt a Permanent Constitution during the Transition Period. The TGoNU will oversee the permanent constitution-making process, based on the principles of rule of law, federalism, democracy, good governance and national unity in diversity. A broad and inclusive process will develop and adopt a constitutional text, through the mechanisms of public consultation, a constitutional conference and a constituent assembly. The Permanent Constitution shall be completed not later than twelve (12) months before the end of the Transition period and shall be in place to guide the Elections which shall be held 60 days before the end of the Transition Period. The TGoNU shall seek support of regional and international experts to benefit from the experience, expertise and best practice to assist in the constitution-making process.

Joint Monitoring and Evaluation Commission (Chapter VII)

Robust oversight: The Joint Monitoring and Evaluation Commission (JMEC) will oversee the implementation of the Agreement. The JMEC will have the power to take corrective action in the event of non-compliance with the terms of the Agreement, including the adherence of the Parties to the agreed timelines and implementation schedule of the Agreement.

The **JMEC** shall oversee institutions created or operating during the Transition, including the Ceasefire and Transitional Security Monitoring Mechanism, the Economic and Financial Management Authority, the Strategic Defence and Security Review Board, the National Elections Commission. All transitional institutions shall present regular reports to the JMEC for this purpose. JMEC shall also report regularly to the TGoNU Council of Ministers, the Transitional National Assembly, the IGAD Council of Ministers, the Peace and Security Council (PSC) of the African union and to the Secretary-General of the United Nations on the status of implementation of the Agreement not less than every three (3) months.

Broad-based membership and high-level leadership: The membership of JMEC will include representatives from the Parties to the Agreement, other South Sudanese stakeholders, and the regional and international guarantors and partners of South Sudan. JMEC will be chaired by a prominent African personality, appointed by the IGAD Heads of State and Government in consultation with partners.

IGAD-PLUS: PARTNERSHIP TO CONCLUDE THE SOUTH SUDAN PEACE PROCESS

1. Introduction

The window of opportunity to restore peace and prevent South Sudan from sliding into a collapsed state is precipitous if the IGAD-led South Sudan peace process is not revitalized with immediate effect. This is warranted by the fact that the political negotiations launched immediately after the outbreak of the conflict have been prolonged with both parties reluctant to reach a compromise.

Since the conflict began in December 2013, the Government of the Republic of South Sudan and the SPLM/A (In Opposition) have resorted to the logic of war rather than a peaceful means in the hope that their hostilities will be settled in the battlefield. The predictable behavior of the warring parties is to cause delays in the peace negotiations and use the lull in the peace process to rearm and fight. For example, following the disagreement in March 2015, there has been a serious escalation of fighting in Upper Nile, Unity and Jonglei States. In addition, independent as well as allied militias to the SPLM/A (IO) have emerged in other parts of South Sudan including Western and Northern Bahr el Ghazal, and Western Equatoria. The unrelenting violence has created a humanitarian crisis and a war induced famine including in Juba, with thousands of people displaced within and across the borders of South Sudan.

The situation would be further aggravated unless a structured international engagement is put in place to give a new impetus for the IGAD Mediation, putting at risk South Sudan's chance for peaceful settlement of the conflict. The IGAD Summit and the IGAD-AU meeting in the margins of the African Union Summit in Johannesburg will be a decisive moment in putting to effect to rejuvenate the South Sudan Peace Process new structure to be known the IGAD-PLUS.

2. Rationale for IGAD-PLUS Partnership Framework

On 1st February 2015 during the 8th Session of the IGAD-led South Sudan peace negotiations, the IGAD leadership informed H.E. Salva Kiir Mayardit, President of the Republic of South Sudan and Dr. Riek Machar Teny, the leader of the SPLM/A-IO as the two principals of the warring Parties that the region could not continue with the peace process in its current format but would consider other options including involvement of the AU and other partners. The two principals requested that the process remain in IGAD but asked for more time to consult their constituencies until the resumption of negotiations on 19th February, 2015. The Principals also agreed that negotiations on all other outstanding issues be completed upon their return and sign a

peace Agreement not later than 5th March, 2015. However the Parties failed to meet the dead line.

The Chair of IGAD Heads of State and Government reiterated that the IGAD Leaders will not continue to recycle the same old script in the IGAD-led South Sudan peace process since January 2014, which has witnessed an unprecedented nine (9) IGAD Summits. But, rather than abandoning the parties and the people of South Sudan, the Chair declared the need to revamp and launch an enhanced mechanism of IGAD that will take the mediation forward, with IGAD remaining at the core of this mechanism.

The proposed IGAD-PLUS, as an international partnership for peace that comprises the African Union, China, European Union, Troika States [US, UK and Norway], United Nations and IPF will have a strong and indispensable role to push the South Sudan peace negotiations toward a final peace deal. This will strengthen the IGAD mediation efforts and galvanize regional and international leverages in terms of both incentives and as pressure points. Given the Parties' current and previous lack of commitment to adhere to agreements they signed, IGAD-PLUS would be best placed to establish a strong oversight mechanism on a full time basis to assist the parties in the implementation of the final peace agreement. The inclusiveness in the IGAD-PLUS provides a joint platform, which will avoid proliferation of initiatives and deter the warring parties to delay the full implementation of the peace agreement.

Furthermore adopting the IGAD PLUS mechanism for IGAD, as a partnership for peace, is drawn from its rich experience of lessons learnt from past similar circumstances in 2002 when addressing conflicts in Somalia and the Sudan as well as in the revitalization of IGAD, during which the joint efforts between IGAD and its partners realized enriched political, diplomatic and financial support including the enhancement of ownership of the final Agreements by the parties involved and their successful implementation.

The Peace and Security Council of the African Union, in line with the request made by the IGAD Assembly Resolution of 7 November 2015, considered the situation in South Sudan at its 474th meeting held on 5th December 2014, and resolved to: *"enhance and scale up its support to IGAD and its mediation efforts in South Sudan, including consultations with the leaders of the region towards the urgent establishment of an AU High-Level Ad-hoc Committee of Heads of State and Government, comprising one representative from each of the five regions of the Continent, which will strengthen Africa's support to IGAD and assist the South Sudanese parties and stakeholders to achieve durable peace in their country"*.

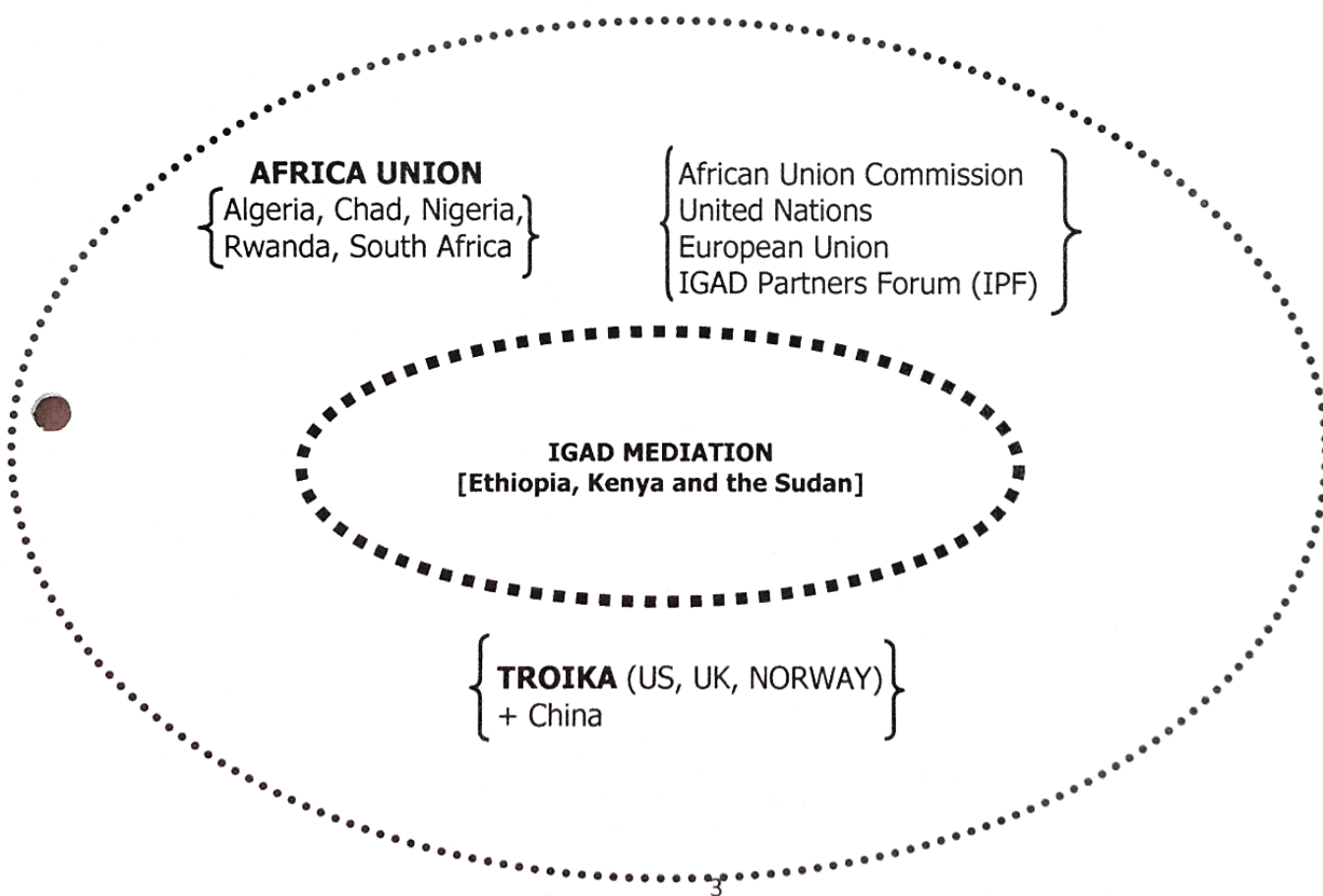
3. Format and Structure of IGAD-PLUS

The rejuvenation of the South Sudan peace process, inter alia, requires operationalization of IGAD-PLUS partnership for peace through proper structure and format to harmonize the regional and international actors towards a common agenda for peace.

IGAD-PLUS shall comprise 19 members, drawn from 6 IGAD Members [Djibouti, Ethiopia, Kenya, Somalia, the Sudan and Uganda], the African Union Members [Algeria, Chad, Nigeria, Rwanda and South Africa]; African Union Commission, China, European Union, the Troika [US, UK and Norway] United Nations and IPF.

IGAD continues at the core and provide leadership to the mediation process facilitating negotiations between the South Sudanese Parties with the other members of IGAD-PLUS providing unequivocal solid support in close coordination.

Fig: The framework of the structure of the IGAD-PLUS



- a) The IGAD Mediation shall draw the modalities of participation of the IGAD-PLUS in the peace process.
- b) The IGAD Envoys will keep abreast the Chairperson of the IGAD Assembly of Heads of State and Government and the Chairperson of the IGAD Ministerial Council and IGAD-PLUS members on all developments who are expected to fully brief and coordinate with IGAD member states and Partners.
- c) Members of the IGAD-PLUS are expected to brief their respective governments and institutions, coordinate and collaborate for peace in South Sudan with the key organs of IGAD.

4. Tasks of the IGAD-PLUS

The main tasks of the IGAD-PLUS Envoys, among others, include both in the current mediation process and the post-conflict implementation of the peace agreement:

a) Mediation Process

The role of IGAD-Plus during the ongoing mediation include:

- i) Observers and advisors of the peace process by closely liaising with the IGAD Mediation to monitor, evaluate and advice on the progress of the peace process.
- ii) Undertake active diplomatic engagement to unblock any existing or envisaged challenges.
- iii) Coordinate leverage in the form of bilateral and multilateral pressures and incentives.
- iv) Ensures consistency and ownership of the pressures and incentives by the international community.
- v) Identify and develop strategies on dealing with spoilers
- vi) Sign the final peace agreement as guarantors to ensure timely implementation of peace agreement.
- vii) Use bilateral and collective engagement with any country that may impede the peace negotiations.
- viii) In coordination with the IGAD Envoys, undertake public diplomacy to communicate to the international community.

b) Post-Conflict Implementation of the Peace Agreement

The role of IGAD-PLUS during the post-conflict phase, inter alia, include:

- i) Critical part of an oversight mechanism that will ensure timely implementation of the peace agreement.
- ii) Mobilize funds for post-conflict reconstruction and development.