

# IGAD

INTERGOVERNMENTAL  
AUTHORITY  
ON DEVELOPMENT



OFFICE OF THE SPECIAL ENVOYS  
FOR SOUTH SUDAN

## MEMO

Date: August 28, 2014

To: H.E. the Prime Minister of the Federal Democratic Republic  
of Ethiopia and Chairperson of IGAD

From: Chairperson of the IGAD Special Envoys for South Sudan

**Re: Follow-up to the 27<sup>th</sup> Extra Ordinary Summit of the  
IGAD Heads of State and Government**

Your Excellency:

1. As you will recall, the 27<sup>th</sup> Extra Ordinary Summit of the IGAD Heads of State and Government held in Addis Ababa on August 25, 2014, endorsed the Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis in South Sudan. The Protocol was signed by President Salva Kiir but not by Dr. Riek Machar, Leader of the SPLM/A (In Opposition).
2. Subsequent to the signing and endorsement of the Protocol by the Summit, the SPLM/A (In Opposition) vehemently expressed its rejection of the second principle of the Protocol, which states: "The Head of State and Government, Commander-in-Chief of the Armed Forces of the TGONU shall be the elected, incumbent President of the Republic;

the President of the Republic shall be deputized by a Vice President of the Republic.”

3. Other stakeholders, namely the SPLM Leaders (Former Detainees), the Political Parties and representatives of civil society also reject certain power sharing principles in the Protocol. Specifically, they object to principles 3, “There shall be established the office of the Prime Minister nominated by the SPLM/A (IO) and who shall be acceptable to the President; whose duties and powers shall be negotiated in the peace process;” and 6, “The Prime Minister will not be eligible to stand for any public office in the national elections at the end of the Transitional Period.” In each case, the premise of the objection is that the Protocol unfairly favours the Government of the Republic of South Sudan and the incumbent President.
4. While the Stakeholders accept the vast majority of the Protocol’s principles, the extremely negative reaction to principles 2, 3 and 6 has led them to effectively reject the document in its entirety and to blame the mediation for engineering an agreement that they see as biased in favour of the Government. As the bulk of the document represents principles drawn from the Stakeholders’ own submissions and contributions during the negotiations, this is most regrettable.
5. The agreed and uncontentious principles in the Protocol have been overshadowed by the disputes on principles 2, 3, and 6, and have led to the perception that the entire Protocol is flawed and unworkable. The mediation must therefore act to rebut this perception, and engage with media in South Sudan and the region to restore confidence in the IGAD-led peace process.

6. Given their views on the Protocol and the overshadowing of the remainder of the Protocol, all stakeholders except the Government would be happy to see the document discarded entirely. This is largely an emotional reaction, given the limited and specific complaints. Discarding the Protocol, however, would not be acceptable to the Government as a signatory, and would run counter to the endorsement of the Protocol by the Summit. However, proceeding with the Protocol as is may mean another boycott by one or more stakeholders, and could mean the negotiations again bog down in procedural issues.
7. The mediation understands the motivations of the Summit to endorse the principles as written in the Protocol. However, in the interests of peace, we believe it is necessary to balance respect for the existing constitutional order in South Sudan with the principles of political accommodation and power sharing, in order to reach a lasting political settlement.
8. Consequently, the mediation seeks a solution to overcome the current impasse and ensure the multi-stakeholder negotiations can resume as planned on September 13, and that the next round of talks works towards concluding a final settlement within 45 days, as endorsed in the Protocol.
9. At this stage, to impose the Protocol *in toto* on unwilling stakeholders would require a direct and forceful intervention from IGAD. Evidently, this first option is far from desirable.
10. The second option, therefore, is for the mediation to inform the parties that it will bracket the contentious principles of the Protocol and continue negotiations on the basis of the remaining, uncontested principles. Once negotiations on those principles are complete, the stakeholders would be encouraged to themselves resolve the issue of power sharing

in the executive, and develop a formula acceptable to all that sufficiently elaborates the roles, powers and functions of the President, Vice President and Prime Minister.

11. Alternatively, the third option would be to similarly bracket the contentious principles and continue negotiations on other areas, and then for the mediation, assisted by expert resource persons, to propose the formula to resolve the issue of power sharing in the executive, after consideration of the various models and experiences employed internationally, and continue negotiations on that basis.
12. It is likely that the Stakeholders will object to the sequencing of negotiations should options two or three be pursued, given their preoccupation with the question of power sharing, unless they can be sufficiently assured that the contentious principles can and will be reopened for negotiation and elaboration at the appropriate juncture. The mediation will explain its plan to the stakeholders in the coming days, and proposes to engage with Dr. Machar and with the SPLM Leaders (Former Detainees), including at the level of the Chairperson of IGAD, to prevent this discontent from further escalating, to reassure the stakeholders of the viability of this approach, and to remind them that absent further negotiations on other critical areas, defining the role of an executive prime minister will not in itself resolve the problem and lead to a lasting political settlement.
13. The mediation therefore suggests that the Prime Minister consider engaging with the Heads of State and Government of IGAD to inform them of the current difficulties described above and the mediation's strategy to resolve them.