



October 12, 2015
Ref No. OSESS/739/15

Excellency,

Please find, enclosed herewith, a memorandum on the need for the full implementation of the Agreement in good faith issued by the IGAD Special Envoys of the IGAD-PLUS peace process.

Please accept, your Excellency the assurances of my highest consideration


Seyoum Mesifin (Ambassador)

Chairman of IGAD Special Envoys for South Sudan



Encl: 4 pages

**To: Hon. Michael Makuei,
Acting Chief Negotiator,
Government of the Republic of South Sudan,
Delegation to IGAD Peace Talks,
Juba**

 **Hon. Taban Deng Gai
Chief Negotiator,
SPLM/SPLA (In Opposition)**

**Hon. Pagan Amoum Okeich
Leader of SPLM Leaders (Former Detainees)**

IGAD

INTERGOVERNMENTAL AUTHORITY
ON DEVELOPMENT



AUTORITÉ INTERGOUVERNEMENTALE
POUR LE DÉVELOPPEMENT

October 10, 2015

Memorandum **On the need for the full implementation of** **The Agreement in good-faith**

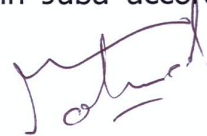
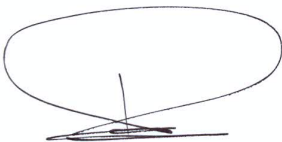
To: The Principals of the signatories of the Agreement
To the Resolution of the Crisis in
The Republic of South Sudan

From: The IGAD Special Envoys of the IGAD-PLUS Peace Process
Amb. Seyoum Mesfin, Chairperson;
Gen. Lazaro K. Sumbeiywo
Amb. Gen. Mohamed Ahmed Mustafa El-Dabi

1. The signing of the Agreement on the Resolution of the Conflict in the Republic of South Sudan on 17 August 2015 by H.E. Dr. Riek Machar Teny, the Leader of the SPLM/A-IO and Hon. Pagan Amoum, Leader of the SPLM Leaders (Former Detainees) and the other stakeholders and on 26 August 2015 by H.E. Gen. Salva Kiir Mayardit, the President of the Republic of South Sudan was a significant step towards the resolution of the crisis in South Sudan that has been going on for almost two years. The Agreement was hailed and overwhelmingly welcomed by the people of South Sudan and unanimously supported by the international community. This is a reflection of the desire of the people of South Sudan and a clear testimony of the crucial support and mammoth goodwill that South Sudan enjoys, which was also demonstrated by the high-level meeting convened in New York on 29 August 2015 as clearly expressed in the communiqué adopted at the meeting.
2. The Agreement signed in August 2015 by all the stakeholders, though a major milestone for peace, its implementation is critical to achieve

sustainable peace and stability in the Republic of South Sudan. The implementation of the Agreement demands an unflinching commitment from all stakeholders and friends of South Sudan. The immediate enthusiasm that was displayed by the Parties in nominating their respective representatives to the institutions that the Agreement establishes and the convening of the Permanent Ceasefire and Transitional Security Arrangement Workshop are encouraging developments.

3. The IGAD Special Envoys are, however, concerned by the delay in the implementation of the Agreement due to the continuation of violations of the Cessation of Hostilities; the rejection and refusal of the SPLM/A-IO to accept the proceedings and outcomes of the Permanent Ceasefire and Transitional Security Arrangement Workshop; and, the issuance of Establishment Order 36/2015 by the Government of the Republic of South Sudan. These are some of the critical challenges facing the implementation of the Agreement.
4. The violation of the Cessation of Hostilities after the signing of the Agreement verified thus far by the Monitoring and Verification Mechanism (MVM) is made public and is available on the Mediation's website. Other alleged violations are being verified by the MVM and will be made public once the process is complete. The IGAD Special Envoys reiterate their previous calls to the Parties to refrain from acts that violate the Cessation of Hostilities and their declarations of ceasefire.
5. The SPLM/A-IO rejection and refusal to sign the proceedings of the Permanent Ceasefire and Transitional Security Arrangements Workshop demanding for immediate and complete demilitarization of Juba cannot be achieved as this is not provided for in the Agreement.
6. The institutions that are created during the Permanent Ceasefire and Transitional Security Arrangement workshop as provided for in the Agreement are mechanisms that would guarantee proper security arrangements for Juba and other areas. In this connection, as a matter of urgency, the Shared Unified Command should be put in place and begin its activities in earnest. This was also clearly highlighted in the United Nations High-level meeting of 29 September 2015. The concerns raised by the SPLM/A-IO could be addressed through the Unified Shared Command. The prompt unification of the forces shall commence in Juba accordingly in



addition to the Joint Integrated Police that should be constituted immediately.

7. In this regard, the IGAD Special Envoys call upon the SPLM/A-IO to join the GRSS in the implementation of the proceedings and outcomes of the Permanent Ceasefire and Transitional Security Arrangement (PCTSA) workshop, as failure to do so, in this regard, obstructs the implementation of the Agreement and delays the peace dividend that the people of South Sudan so deserve.
8. In violation of the Agreement, the Government of the Republic of South Sudan issued Establishment Order 36/2015 on October 2, 2015 redrawing the State boundaries of the Republic that expanded the number of States from 10 to 28. The Order issued by the Government comes barely five weeks after H.E. President Salva Kiir Mayardit signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan.
9. The Order contradicts a number of Articles and is contrary to the spirit and letter of the Agreement. To begin with, it contradicts the preambular paragraph of the Agreement that states: "Cognizant that a Federal system of government is a popular demand of the people of South Sudan and of the need for the TGoNU to reflect this demand by way of devolution of more power and resources to lower levels of government and to initiate that a federal and democratic system of governance that reflects the character of South Sudan and ensures unity in diversity be enacted during the permanent constitution making process."
10. Furthermore, the Order contradicts the basis of the power-sharing arrangement envisaged between the Parties as provided in Chapter I Article 1(1.6) and Articles 15.1—15.3 that have taken into account only the 10 States. In addition, the Order refutes the substantive role of the TGoNU, which, inter alia, initiates and oversees a Permanent Constitution making process that "reflects the character of South Sudan in its various institutions taken together, guarantees good governance, constitutionalism, rule of law, human rights, gender equity and affirmative action", as provided for in Chapter VI, Article 1(1.2) of the Agreement.
11. The Special Envoys, and all those who participated in the mediation process recall, throughout the negotiations, it was rather the SPLM/A-IO that held a strong position on restructuring the system of governance that



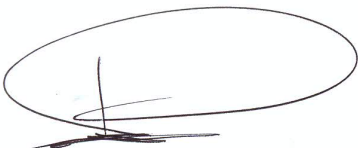
included the expansion of the States from 10 to 21 as a condition for the establishment of the TGoNU, and subsequently demanding for changing the nomenclature of the Transitional Government and all its institutions accordingly. It is to be recalled that the Government delegation strongly opposed this position, and that it was finally agreed that such arrangement could only be undertaken by the Permanent Constitution making process through the consent and direct participation of the people of South Sudan.

12. Hence, the Order is not only in contravention to the spirit and letter of the Agreement, but it is also contrary to the position held by the Government during the course of the negotiations, and could open an unprecedented Pandora's box for further and endless negotiations on the implementation of Agreement.

13. The IGAD Special Envoys, therefore, urge the GRSS to issue a moratorium on the Establishment Order, and advise that such governance arrangements should be conducted in the course of people-centered consultations of the Permanent Constitution making process.

14. It is in this context that the IGAD Special Envoys urge the signatories to the Agreement to heed the calls of the people of South Sudan to give peace a chance and focus on the timely and scrupulous implementation of the Agreement. The leaders of South Sudan have the political, moral and legal obligations to ensure the full and complete implementation of the Agreement in good-faith.

15. The Special Envoys would also bring the issue to the attention of the Chairperson of the IGAD Assembly of Heads of State and Government in order to enable consultations among IGAD leaders with the view to envisaging next steps. Furthermore, the Special Envoys call upon the leaders of the region and the international community to support technically and financially in a sustainable way, the full and complete implementation of the Agreement and encourage the Parties to refrain from all the foregoing actions that derail the realization of the provisions of the Agreement.



16. In the meantime, to ensure the expeditious implementation of the Agreement, the Special Envoys:
- a. Are dispatching members of the Secretariat to put in place the offices for the Joint Monitoring and Evaluation Commission (JMEC) and the National Constitutional Amendment Committee (NCAC) in mid-October 2015.
 - b. Are making necessary preparations to transform the Monitoring and Verification Mechanism to the Ceasefire and Transitional Security Arrangement Monitoring Mechanism (CTSAMM) and inaugurate it.
 - c. Have invited the Chief Negotiators, the Chiefs of General Staff and members of the Shared Unified Command, the Inspector Generals of Police, and the Chiefs of the National Security Services of the two warring Parties to Addis Ababa to start planning and the implementation of the Agreement regarding the unification of forces that shall commence from Juba, as indicated in the communiqué of the UN High-level meeting.
 - d. Will complete the responsibility they were given by the Chairperson of the IGAD Assembly of Heads of state and Government as soon as possible by putting in place the leadership of all institutions provided in the Agreement to takeover the implementation process.

