

## **CHAPTER I: THE REVITALIZED TRANSITIONAL GOVERNMENT OF NATIONAL UNITY (TGoNU)**

### **1. Establishment, Seat and Term of TGoNU**

- 1.1. The Transitional Government of National Unity will be revitalized and entrusted with the task of implementing this Agreement.
- 1.2. The Transitional Period shall be extended by thirty six (36) months preceded by one hundred twenty (120) days of a Pre-Transitional Period. The Pre-Transitional Period shall commence immediately upon the signing of this Agreement.
- 1.3. The seat of the TGoNU shall be Juba.
- 1.4. The structure and mandate of the Executive of the Republic of South Sudan during the Transition shall be as provided for in this Agreement.
- 1.5. The TGoNU shall hold Elections sixty (60) days before the end of the Transition Period in order to establish a democratically elected government.

### **2. Principles of governance for the TGoNU**

- 2.1. The goals of the revitalization of the implementation of the ARCSS and the recovery and stabilisation of South Sudan require governance arrangements during the Revitalization to be guided by the following principles and considerations:
  - 2.1.1. The promotion of reconciliation, accountability, healing and national consensus;
  - 2.1.2. The need to reflect the national character and diversity through equitable participation of political parties, women, regions, youth and civil society;
  - 2.1.3. The Separation of Powers between the legislative, executive and judicial functions of the TGoNU;
  - 2.1.4. The application and respect for effective checks and balances to in the exercise of legal power;
  - 2.1.5. Responsibility-sharing for the stabilisation and recovery of the country;
  - 2.1.6. Effectiveness in public service, the fair distribution of roles and efficient administration; and,

- 2.1.7. Strengthening the capacity and competence of the TGoNU to lead the Transition and the recovery and transformation of South Sudan.
- 2.2. Responsibility-sharing in the Executive of the TGoNU shall be applied as follows:
- 2.2.1. In the Council of Ministers, and in other bodies provided for under the Agreement, fifty one percent (51%) for the Incumbent TGoNU, and forty nine percent (49%) for the South Sudan Opposition, as specified in Chapter I article 4 below, unless the Agreement provides otherwise;
- 2.3. The Former Detainees shall be treated as individual leaders for the purpose of allocation of responsibility and accordingly they will be eligible for a maximum of nine (9) positions;
- 2.4. Former Detainees may nominate two (2) representatives to serve as Ministers, and one (1) as a Deputy Minister. These positions are not part of the ratios specified in sub-article 2.2.1. above.
- 2.5. The responsibility-sharing ratio in a State within the former States of Jonglei, Unity and Upper Nile as determined in the ARCSS, 2015 shall be as follows:
- 2.5.1. The Incumbent TGoNU forty six percent (46%);
- 2.5.2. The South Sudan Armed Opposition (SSAO) forty percent (40%);
- 2.5.3. Two (2) Former Detainees; and,
- 2.5.4. Other Political Parties: balance of percentage.
- 2.6. The above ratios shall also apply to other states where there is a significant presence or influence of opposition groups. These include states within Equatoria and Bahr Ghazal, as determined by the Parties.
- 2.7. Responsibility-sharing in the remaining States of South Sudan shall be according to the ratio of seventy percent (70%) for the Incumbent TGoNU and thirty percent (30%) for the South Sudan Opposition. The allocation of the South Sudan Opposition shall be shared among the armed and unarmed opposition in accordance with the actual presence or influence of a party or entity within the State concerned.
- 2.8. Save in exceptional circumstances, a person shall not be nominated to more than one position under the terms of this Agreement.

### 3. Mandate of TGoNU

#### 3.1. The TGoNU shall:

- 3.1.1. Implement this Agreement and restore permanent and sustainable peace, security and stability in the country;
- 3.1.2. Expedite the relief, protection, voluntary and dignified repatriation, rehabilitation and resettlement and reintegration of IDPs and returnees, working closely with the United Nations and other international agencies;
- 3.1.3. Facilitate and oversee a people-driven process of national reconciliation and healing through an independent mechanism in accordance with this Agreement including budgetary provisions for compensation and reparations;
- 3.1.4. Oversee and ensure that the Permanent Constitution-making process is successfully carried out and completed before the end of the Transition Period;
- 3.1.5. Work closely with the IGAD-PLUS Member States and Organizations and other partners and friends of South Sudan, to consolidate peace and stability in the country;
- 3.1.6. Carry out radical reform and transformation of public financial management systems to ensure transparency and accountability;
- 3.1.7. Ensure prudent, transparent and accountable management of national wealth and resources to build the nation and promote the welfare of the people;
- 3.1.8. Carry out the functions of government;
- 3.1.9. Restructure, rehabilitate, and ensure radical reform of the civil service;
- 3.1.10. Design and implement security sector reforms and security sector transformation, to include the restructuring and reconstitution of institutions;
- 3.1.11. Rebuild and recover destroyed physical infrastructure and give special attention to prioritizing the rebuilding of livelihoods of those affected by the conflict;

3.1.12. Reconstitute a competent and independent National Elections Commission (NEC) to conduct free, fair and credible elections before the end of the Transitional Period and ensure that the outcome reflects the will of the electorate;

3.1.13. Conduct a National Population and Housing Census before the end of the Transitional Period; and,

3.1.14. Devolve more powers and resources to the State and Local Government levels.

#### **4. Composition of the restructured TGoNU:**

4.1. During the Transitional Period, responsibility for governance shall be shared between the current Transitional Government of National Unity (“the Incumbent TGoNU”), on the one hand, and the parties and entities outside of the Incumbent TGoNU (“the South Sudan Opposition”) on the other hand, as collectives.

4.1.1. The Incumbent TGoNU is comprised of the following: the Sudan People’s Liberation Movement/Army- In Government (SPLM/A-IG), the SPLM/A– In Opposition (led by Taban Deng Gai) and Other Political Parties.

4.1.2. The South Sudan Opposition is comprised of the following: the political and other entities that have signed this Agreement, which include the South Sudan Armed Opposition, and unarmed political parties and entities.

4.1.3. Other Political Parties which participated in the High Level Revitalisation Forum, which led to the adoption of this Agreement, shall collectively choose their representatives in the Council of Ministers, Transitional National Assembly and in the governance institutions of the South Sudanese States, as well as any of the institutions referred to in this Agreement, according to the specified ratios. Such selection shall be witnessed by the IGAD-led Mediation.

#### **5. Structure of the Executive of the TGoNU**

5.1. The Executive of the TGoNU shall comprise of the President and four (4) Vice Presidents, as the Presidency; and, the Council of Ministers and Deputy Ministers.

5.2. The Council of Ministers shall comprise of the President, the four (4) Vice Presidents, and the Ministers.

## **6. President of the Republic of South Sudan**

- 6.1. The President of the Republic shall serve as President and Executive Head of State for the Transitional Period;
- 6.2. The Powers, Functions and Responsibilities of the President shall be to:
  - 6.2.1. Preserve and protect the sovereignty and territorial integrity of the Republic of South Sudan;
  - 6.2.2. Represent the State, the TGoNU and the people of South Sudan in its international relations;
  - 6.2.3. Serve as Commander-in-Chief of the South Sudan National Defence Forces;
  - 6.2.4. Appoint and preside over the swearing into Office of the Vice Presidents, Ministers and Deputy Ministers in accordance with the terms of this Agreement;
  - 6.2.5. Appoint Undersecretaries of the Ministries in consultation with the Vice Presidents and with the approval of the Council of Ministers;
  - 6.2.6. Chair the Council of Ministers;
  - 6.2.7. Chair the National Security Council (NSC);
  - 6.2.8. Chair the National Defence Council (NDC);
  - 6.2.9. During emergencies, initiate the convening of the Transitional National Legislature (TNL) in consultation with the Speaker and in accordance with the TCRSS and the law;
  - 6.2.10. Assent to and sign into law bills passed by the TNL;
  - 6.2.11. Supervise the conduct of foreign policy and ratify treaties and international agreements with the approval of the TNLA;
  - 6.2.12. Appoint ambassadors and other senior diplomatic representatives to foreign countries as proposed by the Minister of Foreign Affairs and approved by the Council of Ministers;

- 6.2.13. Sign letters of accreditation of diplomatic representatives of the Republic of South Sudan to foreign countries, regional and international organizations; and, receive the credentials of diplomatic representatives of foreign countries;
  - 6.2.14. Preside over the swearing into office of heads of Independent Institutions, Commissions and Parastatals, as per this Agreement; and,
  - 6.2.15. Perform any other function as may be prescribed by the TCRSS, this Agreement or the Law.
- 6.3. In the event that the post of the President falls vacant during the Transition Period, for any reason, including mental infirmity or physical incapacity of the office holder, the replacement shall be nominated by the top leadership body of the respective Party as at the signing of this Agreement. Such a process of replacement shall not exceed twenty four (24) hours.

## **7. The Vice Presidents of the Republic of South Sudan**

- 7.1. For the duration of the Transitional Period, there shall be four (4) Vice Presidents of the Republic of South Sudan who shall oversee the clusters of the Council of Ministers, and generally to supervise the implementation of the reforms outlined in this Agreement and to exercise the powers, functions and responsibilities outlined below.
- 7.2. The offices of Vice President shall formally cease to exist at the conclusion of the Transitional Period unless otherwise decided in the Permanent Constitution.
- 7.3. Each Vice President shall have the following supervisory functions in his or her respective Cabinet cluster:
  - (i) A Vice President to oversee the Governance Cluster.
  - (ii) A Vice President to supervise the Economy Cluster.
  - (iii) A Vice President oversee the Infrastructure Cluster.
  - (iv) One Vice President overseeing the Human Development and Social Services Cluster.
- 7.4. **The Vice President in charge of the Economy issues** shall be nominated by the SPLM/A-IO (led by Dr Riek Machar) and, in addition to the general powers specified in article 8 below, shall have the following specific responsibilities:

- 7.4.1. Causing the preparation of the annual budget of the TGoNU by the Minister of Finance and planning to be presented to the Council of Ministers and the Transitional National Legislative Assembly (TNLA);
  - 7.4.2. Chairing the Economic and Financial Management Authority (EFMA) Board;
  - 7.4.3. Oversee the preparation and consideration of TGoNU business and programmes;
- 7.5. The Vice President in charge of Governance issues shall be nominated by the Incumbent TGoNU and shall have the following specific responsibilities:
  - 7.5.1. To serve as the Acting Commander-in-Chief of the unified South Sudan National Defence Forces in the event of any temporary absence of the President after the unification of the forces;
  - 7.5.2. To serve as the Principal Deputy Chair of the National Security Council;
  - 7.5.3. To serve as the Principal Deputy Chair of the National Defence Council;
- 7.6. The Vice President in charge of the Infrastructure cluster shall be nominated by the South Sudan Opposition, without the participation of SPLM/A-IO.
- 7.7. The Vice President in charge of Human Development and Social Services shall be a woman nominated by the procedure specified in Chapter I article 10.
- 8. The General Powers, Functions and Responsibilities of the Vice Presidents shall be to:**
  - 8.1. Coordinate the implementation of this Agreement and initiate institutional reforms as prescribed in this Agreement;
  - 8.2. Perform any other function in the absence of the President or another Vice President;
  - 8.3. Follow up and ensure the implementation of Council of Ministers' decisions with the relevant Ministries and institutions;
  - 8.4. Oversee implementation of laws passed by the Transitional National Legislative Assembly;

- 8.5. In the absence of the President to chair the Council of Ministers on a rotational basis;
- 8.6. Oversee the work of the National Commissions and Parastatals associated with the clusters under the respective Vice President's oversight;
- 8.7. Ensure that there is coordination between the independent Commissions, interim and ad hoc Commissions and Committees, and Transitional Institutions and Mechanisms with other public bodies;
- 8.8. Serve as a member of the NSC and the NDC, and act as chair to the NSC and NDC in the absence of the President and Vice President overseeing the Governance cluster;
- 8.9. Carry out any other function as may be prescribed by law, provided that such law is in conformity with the terms of this Agreement; and,
- 8.10. Perform any other function or duty that may be assigned by the President, as long as such assigned functions or duties do not conflict with the powers, functions and responsibilities of any other Vice Presidents, except in the case of the absence of the other Vice President.
- 8.11. In the event that a post of a Vice President falls vacant during the Transitional Period, for any reason, including mental infirmity or physical incapacity of the office holder, the replacement shall be nominated by the same mechanism provided for in this Agreement, whom the President shall appoint to replace the Vice President.
- 8.12. The appointment of a replacement Vice President shall be endorsed by the Transitional National Legislative Assembly (TNLA).
- 8.13. A Vice President may not be removed or recalled except through the process provided for under this Agreement.

## **9. Powers, Functions and Responsibilities to be exercised by the President and the Vice Presidents through consultation and mutual agreement**

- 9.1. The Revitalized TGoNU is founded on the premise that there shall be collegial decision-making and continuous consultation within the Presidency—between the President and the Vice Presidents—in order to ensure effective governance during the Transitional Period.



- 9.2. Powers exercised by the President with consultation and agreement of the Vice Presidents:
- 9.2.1. The nomination and appointment of Constitutional office holders including state governors, in accordance with the terms of this Agreement;
  - 9.2.2. Confirmation of death sentences, granting of pardons, and commuting of convictions and penalties in accordance with the law;
  - 9.2.3. Commissioning, appointment, promotion, retirement and dismissal of officers of the NDFSS and other organized forces with the approval of the National Defence Council or National Security Council, as appropriate; and,
  - 9.2.4. The nomination and appointment of the members of independent Commissions, interim and ad hoc Commissions and Committees.
  - 9.2.5. Confer national honours, both civil and military, in accordance with the laws governing such decorations and medals;
- 9.3. The following powers, functions and responsibilities shall be initiated by the President, in accordance with the TCRSS (amended 2018), and shall require the agreement of the Vice Presidents:
- 9.3.1. Declaration and termination of a state of emergency; and,
  - 9.3.2. Declaration of war.
- 9.4. The following powers, functions and responsibilities may be initiated by either the President or a Vice President, and shall require the agreement of at least three out of five (3/5) of the Presidency:
- 9.4.1. Initiation of Constitutional amendments, provided that no Constitutional amendment may be initiated during the Transitional Period that contradicts the terms of this Agreement, or the process provided for in Chapter I, Article 15 of this Agreement;
  - 9.4.2. Convening, summoning and/or adjourning the Transitional National Assembly for ordinary sessions, in consultation with the Speaker of the Transitional National Assembly; and,

#### 9.4.3. Initiation of legislation.

### 10. Establishment of a Nominations Mechanism

- 10.1. In coordination with IGAD, the Chair and Deputy Chair of the NCAC, shall establish a Nominations Mechanism as follows; one (1) person drawn from the Incumbent TGoNU; one (1) from the South Sudan Opposition; one (1) from civil society; one (1) from academia; one (1) youth representative; one (1) representative of the business community. At least two of the members shall be women.
- 10.2. The Mechanism shall seek and receive names from the Parties to this Agreement, from civil society, business and other constituencies, of suitable candidates for nomination of the woman Vice President.

### 11. Qualifications for position of Vice President

- 11.1. To be eligible for appointment as Vice President, a person must demonstrate the following:
  - 11.1.1. Proven competence in the management of public affairs and resources and the ability to conduct and oversee the business of government efficiently;
  - 11.1.2. Collegiality in working with other public servants and senior leaders;
  - 11.1.3. Personal integrity and probity in all aspects.

### 12. Council of Ministers

- 12.1. The responsibility-sharing formula that shall apply to the Council of Ministers and any other institution reconstituted by this Agreement shall be as follows, unless otherwise specified in this Agreement:
  - 12.1.1. Incumbent TGoNU: fifty one percent (51%) of Ministerial portfolios (15 Ministers, to be apportioned within the Bloc);
  - 12.1.2. Former Detainees: 2 Ministerial portfolios (2 Ministers);
  - 12.1.3. Sudan People's Liberation Movement/Army-In Opposition (led by Dr Riek Machar): twenty eight percent (28%) of Ministerial portfolios (9 ministers);
  - 12.1.4. Other Armed Groups: twelve percent (14%) percent of Ministerial portfolios (4 ministers);

- 12.1.5. Other Political Parties: seven per cent (7%) of Ministerial portfolios (2 Ministers).
- 12.2. The Council of Ministers shall comprise thirty (32) Ministries, organised in four (4) Sectoral clusters. No other Ministries shall be created during the Transitional Period. The Ministries of the TGoNU shall be as follows:
- 12.2.1. **Governance Cluster, eleven (11) Ministries:** Cabinet Affairs; Foreign Affairs and International Cooperation; Defence and Veterans' Affairs; Interior; Justice and Constitutional Affairs; National Security; Parliamentary Affairs; Ministry of Federal Affairs; Ministry of Information; Minister in the Office of the President; Ministry of East African Community
- 12.2.2. **Economic Cluster, nine (09) Ministries:** Finance and Planning; Petroleum; Mining; Agriculture and Food Security; Livestock and Fisheries; Trade and Industry; Cooperatives and Rural Development; Environment and Forestry; Wildlife Conservation and Tourism.
- 12.2.3. **Human Development and Social Services Cluster, eight (08) Ministries:** Higher Education, Science and Technology; General Education and Instruction; Health; Labour and Employment; Public Service and Human Resource Development; Gender, Child and Social Welfare; Culture, Youth, and Sports; Humanitarian Affairs and Disaster Management.
- 12.2.4. **Infrastructure Cluster, four (04) Ministries:** Transport, Roads and Bridges; Information, Communication Technology and Postal Services; Energy, Dams, Water Resources and Irrigation; Land, Housing and Urban Development.
- 12.3. The Council of Ministers shall carry out the following duties and responsibilities:
- 12.3.1. Ensure the implementation of this Agreement, relevant programs and processes, national reforms, and to lead the TGoNU in a manner consistent with peace, inclusive governance, and reconciliation;
- 12.3.2. Prepare, initiate and implement legislation;
- 12.3.3. Develop Government policies and programs at the national level and, where applicable, at sub-national levels;

12.3.4. Manage and allocate resources to support the implementation of these policies and programs, within the framework of the approved national budget of the TGoNU;

12.3.5. Supervise and co-ordinate the functioning of Government departments and administration, and ensure that State organs have sufficient financial and other resources, and operational capacity to carry out their functions; and,

12.3.6. Perform any other function or duty as may be prescribed by the TCRSS, this Agreement and the law.

12.4. The Council of Ministers shall take decisions by consensus.

12.4.1. In the absence of consensus, on procedural and routine matters, decisions shall require a simple majority of the members of the Council of Ministers present.

12.4.2. In the absence of consensus, on substantive matters, decisions shall require the agreement of two thirds (67%) of the members of the Council of Ministers.

12.4.3. Twenty four (24) members of the Council shall make the quorum of the Council of Ministers.

## 12.5. Deputy Ministers

12.5.1. There shall be twelve (12) Deputy Ministers who shall assist their respective Ministers in the performance of the Ministers' functions and duties and shall act in the Ministers' absence. No other Deputy Ministers shall be appointed during the Transition Period.

12.5.2. Deputy Ministers shall be appointed as follows:

12.5.2.1. **Governance Cluster, five (05) Ministries:** Cabinet Affairs; Foreign Affairs and International Cooperation; Defence and Veterans' Affairs; Interior; Justice and Constitutional Affairs;

12.5.2.2. **Economic Cluster, four (04) Ministries:** Finance and Planning; Agriculture and Food Security; Trade and Industry; Wildlife Conservation and Tourism.

12.5.2.3. **Human Development and Social Services Cluster, two (02) Ministries:** General Education and Instruction; Public Service and Human Resource Development;

12.5.2.4. **Infrastructure Cluster, one (01) Ministries:** Land, Housing and Urban Development.

## **12.6. Selection of Ministries and Appointment Procedure for Ministers and Deputy Ministers**

Unless the respective Parties agree otherwise, the following procedure shall apply to the selection of Ministries:

12.6.1. Upon signing this Agreement, each Party to this Agreement shall nominate Ministerial portfolios on a rotational basis according to the following procedure:

12.6.1.1. The Incumbent TGoNU shall nominate the first Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 12.2 sub-articles (12.2.1), (12.2.2), (12.2.3) and (12.2.4) of this Agreement;

12.6.1.2. The SPLM/A-IO (Machar) shall nominate the second Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 10.2 sub-articles (10.2.1), (10.2.2), and (12.2.3) of this Agreement;

12.6.1.3. The Former Detainees shall nominate the third Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 12.2 sub-articles (12.2.1), (12.2.2), (12.2.3) and (12.2.4) of this Agreement;

12.6.1.4. The Other Armed Opposition Groups shall nominate the fourth Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 12.2 sub-articles (12.2.1), (12.2.2), (12.2.3) and (12.2.4) of this Agreement;

12.6.1.5. The Other Political Parties shall nominate the fifth Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 12.2 sub-articles (12.2.1), (12.2.2), (12.2.3) and (12.2.4) of this Agreement;

- 12.6.1.6. The Incumbent TGoNU shall nominate the sixth Ministerial portfolio, by selecting a Ministerial portfolio from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;
- 12.6.1.7. The SPLM/A-IO (Machar) shall nominate the seventh Ministerial portfolio, from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;
- 12.6.1.8. The Former Detainees shall nominate the eighth Ministerial portfolio, from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;
- 12.6.1.9. The Other Armed Opposition Groups shall nominate the ninth Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 12.2 sub-articles (12.2.1), (12.2.2), (12.2.3) and (12.2.4) of this Agreement;
- 12.6.1.10. The Other Political Parties shall nominate the tenth Ministerial portfolio, from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio.
- 12.6.1.11. Subsequent nominations of Ministerial portfolios by the Incumbent TGoNU, SPLM/A-IO (Machar) and Other Armed Opposition Groups shall continue, on the same rotational basis, and continuing to alternate between the four (4) Ministerial sectoral clusters, until these Parties have their full allocation of Ministerial portfolios, in accordance with the power-sharing formula provided in Chapter I, Article 12 of this Agreement, until the selection of Ministerial portfolios is complete.

12.6.2. In accordance with the Declaration of Principles, each Party shall nominate women to at least thirty five percent (35%) of its allocation of positions.

12.6.3. The nominees to the Council of Ministers shall be sworn in by the President.

12.6.4. Deputy Ministers shall be sworn in by the President.

## **12.7. Governance Consolidation List – Deputy Ministers:**

12.7.1. In accordance with the principle of consolidation and enhancement of Governance, six (6) of the Deputy Ministers shall be nominated through the Nominations Mechanism, established under Chapter I article 10.

12.7.2. The Mechanism shall employ a process similar to the nomination of a Vice President, except that candidates for the position of Deputy Minister shall be approved by the Vice Presidents, acting together. Upon approval, the Vice Presidents shall submit to the President the names for formal appointment.

12.7.3. The Vice Presidents will specify the portfolios to which the Deputy Ministers are to be deployed.

12.7.4. Deputy Ministers appointed through the Nomination Mechanism, shall enjoy security of tenure during the Transition Period and may not be recalled or replaced save with the approval of the TNLA, and for just cause.

#### **12.8. Replacement and Removal Procedures:**

12.8.1. Each Party may remove its representatives in the Council of Ministers and nominate replacements by giving the President and the Vice Presidents notice of at least fourteen (14) days;

12.8.2. In the event that a Ministerial post falls vacant during the Transition Period, the replacement shall be nominated by the top leadership body of the party that first selected that Ministerial portfolio, as appointed at the commencement of the Transition. The replacement Minister shall serve in office until the end of the Transition Period;

12.8.3. In the event that a Deputy Minister post falls vacant during the Transition Period, the replacement shall be nominated by the Nominations Mechanism. If the Nominations Mechanism has ceased to function, by a similar process organised by the Joint Mechanism and Evaluation Mechanism. The replacement Deputy Minister shall serve in office until the end of the Transition Period.

#### **13. The Transitional National Legislature**

13.1. The Transitional National Legislature shall consist of the Transitional National Legislative Assembly and the Council of States.

- 13.2. Before the end of the Pre-Transitional Period, the Transitional National Legislative Assembly (TNLA) shall be restructured and reconstituted. The new Assembly shall have 400 members, to include the following:
- (a) the prior Elected Members from 2010 Southern Sudan and national elections, including any member who had been unseated as a consequence of the crisis since 13 December 2013;
  - (b) the Former Detainees shall nominate two (2) representatives; and,
  - (c) the balance of the members shall comprise of the following: the Incumbent TGoNU, (55%); South Sudan Opposition (armed and unarmed), (45%). The South Sudan Opposition allocation shall be selected on the same basis as the ratio for the Council of Ministers, as specified in Chapter I, sub-article 12.1 above.
- 13.3. The duration and term of the TNLA shall run concurrently with that of the TGoNU, in accordance with the terms of this Agreement, until such time as Elections are held.
- 13.4. The current term and mandate of the elected members as defined in sub-article 13.1. (a) above shall be extended for the duration of the Transitional Period.
- 13.5. As soon as the membership of the Assembly has been finalised, the TNLA shall select a Speaker. Until that time, the incumbent shall continue to act.
- 13.6. The functions and mandate of the TNLA shall remain as stipulated in the Transitional Constitution of the Republic of South Sudan, 2011 as amended in 2015, unless otherwise specified by the terms of this Agreement.
- 13.7. In the conduct of its business, the TNLA shall at all times support the implementation of this Agreement and enact legislation that enables and assists the transitional processes and reforms stipulated in this Agreement.
- 13.8. Decisions in the TNLA on matters pertaining to this Agreement shall be by consensus and in lieu of that, shall be by two thirds (2/3) majority of all the members.
- 13.9. Decisions in the TNLA on other matters not related to this Agreement shall be by consensus and in lieu of that by simple majority;



### *Council of States*

- 13.10. The composition, functions and mandate of the Council of States shall continue as constituted under the TCRSS 2011, for the duration of the Transitional Period, until such time as Elections are held.
- 13.11. Any vacant positions on the Council of States shall be filled by nominees of the South Sudan Opposition, in accordance with the formula stipulated in sub-article 11.1. (b) of this Chapter.

### **14. The Judiciary**

- 14.1. The Judiciary of South Sudan shall be independent, impartial and credible and shall at all times observe the principle of the Separation of Powers and the supremacy of the Rule of Law, in accordance with the TCRSS, 2011.
- 14.2. There shall be reforms of the judiciary that shall include but not be limited to the review of the Judiciary Act during the Transition. Notwithstanding, every effort shall be made to build up the capacity of the judicial personnel, and justice infrastructure.
- 14.3. The reconstituted Judicial Service Commission (JSC), as provided for under Chapter 1, Article 16.1.9., shall study and recommend appropriate judicial reforms and restructuring during the Transitional Period.
- 14.4. There shall be established, during the Transitional Period, an independent, impartial and credible Constitutional Court whose composition, functions and duties shall be regulated by law.

### **15. Pre-Transitional Period and National Constitutional Amendment Committee (NCAC)**

- 15.1. Upon the signing of this Agreement, the IGAD-led Mediation, in consultation with the Parties and other stakeholders, shall reconstitute the National Constitutional Amendment Committee (NCAC) into a representative committee of persons with legal and other competences. The Committee shall complete its preparations for the Transition Period and the formation of the TGoNU within the Pre-Transitional Period. Within twelve (12) months, the Committee shall also prepare new and revised legislation as provided for in this Agreement, and shall perform the following tasks within the specified timelines:

- 15.1.1. To draft and complete a Constitutional Amendment Bill within twenty one (21) days upon signing this Agreement. The Bill shall incorporate this Agreement into the Transitional Constitution of the Republic of South Sudan of 2011 (TCRSS);
- 15.1.2. In accordance with Chapter VIII of this Agreement, relating to the Supremacy of this Agreement, in the event that the provisions of this Agreement conflict with the provisions of the TCRSS, the provisions of this Agreement shall prevail;
- 15.1.3. To draft Amendments to relevant national security legislation to bring their provisions into conformity with this Agreement, including, inter alia: the Sudan People's Liberation Act, 2009; National Security Act, 2014; The Police Service Act, 2009; The Prison Service Act, 2011; The Wildlife Service Act, 2011. The NCAC shall complete the drafting of these Amendments within forty five (45) days of the signing of this Agreement;
- 15.1.4. The enactment of the proposed amendments into law shall be completed within twelve (12) months of the signing of this Agreement; and,
- 15.1.5. The NCAC shall complete the incorporation of these Amendments within forty-five (45) days from the date of the signing of this Agreement.
- 15.2. The NCAC shall be composed of thirteen (13) members, with competence to perform the functions of the Committee, and nominated as follows:
  - 15.2.1. Incumbent TGoNU: three (3);
  - 15.2.2. South Sudan Armed Opposition: three (3);
  - 15.2.3. Former Detainees: one (1);
  - 15.2.4. Other Political Parties: one (1);
  - 15.2.5. Representative of IGAD: two (2), Chair and Deputy Chair;
  - 15.2.6. Women's Representative (1)
  - 15.2.7. Representatives of Civil Society (1)
  - 15.2.8. Representative of Youth (1)
- 15.3. Where a party or entity, other than IGAD, is entitled to nominate more than one person to the Committee, at least one of them shall be a woman.
- 15.4. The NCAC shall maintain its own secretariat.

- 15.5. The Minister of Justice and Constitutional Affairs shall receive the draft Amendments to the TCRSS and other legislation prepared by the NCAC and shall present those Amendments to the Council of Ministers and the Transitional National Assembly, within seven (7) days of receiving the Amendments from the NCAC.
- 15.6. The Transitional National Assembly shall ratify the Amendments to the TCRSS within thirty (30) days upon receipt from the Minister of Justice and Constitutional Affairs.
- 15.7. The President shall assent to the Amendments within 90 days of the signing of this Agreement. The Amended Constitution shall be known as the Transitional Constitution of South Sudan, TCRSS (amended 2018).
- 15.8. Institutions and mechanisms that are necessary for the establishment of the Revitalized TGoNU provided in this Agreement shall be established or reconstituted during the Pre-Transitional Period taking into consideration inclusivity and the national diversity of the people of South Sudan.

## **16. Transitional Institutions and Mechanisms**

- 16.1. During the Transitional Period, the following existing Commissions and Institutions shall be restructured and reconstituted at the national level, as provided for in this Agreement. The Executive shall supervise and facilitate the reforms and reconstitutions of the Commissions and Institutions paying particular attention to the mandate and appointments, to ensure their independence and accountability:

- 16.1.1. Anti-Corruption Commission (ACC);
- 16.1.2. Public Grievances Chamber (PGC);
- 16.1.3. Fiscal, Financial Allocation and Monitoring Commission (FFAMC);
- 16.1.4. National Audit Chamber (AC);
- 16.1.5. Relief and Rehabilitation Commission (RRC);
- 16.1.6. Peace Commission (PC);
- 16.1.7. National Bureau of Statistics (NBS);
- 16.1.8. Human Rights Commission (HRC);
- 16.1.9. Judicial Service Commission (JSC);
- 16.1.10. Civil Service Commission (CSC);
- 16.1.11. Land Commission (LC);
- 16.1.12. Electricity Corporation (EC);
- 16.1.13. Refugees Commission (RC);
- 16.1.14. South Sudan Broadcasting Corporation (SSBC);

- 16.1.15. National Petroleum and Gas Commission (NPGC);
- 16.1.16. National Bureau of Standards (NBS);
- 16.1.17. Urban Water Corporation (UWC);
- 16.1.18. Roads Authority;

## **17. Structure and Composition of State Governments**

- 17.1. Not later than one month from the commencement of the Transitional Period, Transitional Governors shall be appointed in the States within the former States of Jonglei, Unity and Upper Nile. For new States within the former Upper Nile and Unity States, the South Sudan Armed Opposition shall nominate the candidates, which the President shall appoint. The Incumbent TGoNU shall nominate the Governor of any State within the former Jonglei State.
- 17.2. In the event that a State Ministerial post falls vacant during the Transitional Period, the replacement State Minister shall be nominated by the top leadership body of the party that first selected that State Ministerial portfolio, as appointed at the commencement of the Transition. The replacement State Minister shall serve in office until the end of the Transition Period;
- 17.3. A person who was a member of the State Legislative Assemblies (SLA) of the former States of Jonglei, Unity, and Upper Nile and left or was unseated or dismissed within the context of the political crisis since 15 December 2013, shall be entitled to return to the Assembly of a State within their the area of Jonglei, Unity, and Upper Nile, and shall continue to serve as Transitional State Legislative Assemblies (TSLA) of such a State until such time as Elections are held.

## **16. National Elections**

- 16.1. Within six (6) months of the signing of this Agreement, the National Constitutional Amendment Committee shall review the Political Parties Act, 2012, and ensure that the Act complies with international best practices for the free and democratic registration of Political Parties in South Sudan, and shall present a Draft Bill to the National Legislative Assembly for adoption. The Act shall permit the open registration of Parties.
- 16.2. The Executive of the TGoNU shall reconstitute the Political Parties Council not later than two (2) months after amendment of the Political Parties Act, and no later than eight (8) months after the signing of this Agreement.

- 16.3. The National Elections Act, 2012 shall be amended to conform with the terms of this Agreement, no later than six (6) months following the signing of this Agreement.
- 16.4. No later than seven (7) months following the signing of this Agreement, the President, in consultation with the Parties to this Agreement and with the approval of the TNLA, shall reconstitute an independent, competent and impartial National Elections Commission (NEC), to conduct Elections.
- 16.5. Sixty (60) days prior to the end of the Transitional Period, the National Election Commission (NEC) shall organize Elections in accordance with the provisions of the Permanent Constitution adopted pursuant to this Agreement, and shall ensure that the outcomes are broadly reflective of the will of the electorate.
- 16.6. The National Elections Act, 2012 shall be amended to conform with the terms of the Permanent Constitution, no later than six (6) months following the signing of this Agreement.
- 16.7. The TGoNU shall urgently address challenges of repatriation, resettlement, rehabilitation, reconstruction of livelihoods of IDPs and returnees as critical factors affecting peacebuilding and Elections.
- 16.8. The reconstituted NEC, shall, upon its formation, request the United Nations and the African Union for assistance including in the following areas:
  - 16.8.1. Establishment of electoral management bodies at state level;
  - 16.8.2. Establishment of procedures for the voter registry and targeted voter registration;
  - 16.8.3. Procurement of electoral material;
  - 16.8.4. Capacity building;
  - 16.8.5. Polling and Elections security arrangements;
  - 16.8.6. Tallying and counting of votes;
  - 16.8.7. Announcement of election results;
  - 16.8.8. Complaints procedures; and,
  - 16.8.9. Support to civic education and voter outreach.
- 16.9. The NEC may also request additional technical assistance from any other regional or international partners, as it deems necessary.
- 16.10. The voter register shall be published no later than six (6) months prior to the holding of Elections; existing registration data drawn from the National Elections

of 2010 and the South Sudan independence referendum of 2011 shall serve as the basis for updating the register;

- 16.11. The NEC shall invite and accredit competent and impartial local, regional and international observers to monitor the conduct of the entirety of the Electoral Process in accordance with the provisions of the amended National Elections Act.
- 16.12. Any dispute regarding the propriety of the conduct and results of any aspects of the Elections shall be appealable in accordance with the Provisions of the new Permanent Constitution, provided for in Chapter VI of this Agreement, and in any relevant legislation made thereunder. Legislation shall provide for the adjudication of certain electoral disputes to be final and binding.