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Chief Mediator
High-Level Mediation for South Sudan
The Tumaini Initiative
Nairobi

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Your Excellency, Chief Mediator,

Sub: Fundamental Issues for Achieving Peace in South Sudan

In our capacity as leaders of South Sudan Oppositional Alliance (SSOMA) and other opposition groups, we write to present our shared position on fundamental issues that we believe are critical to achieving a political settlement through the Tumaini Initiative. We received the document the Secretariat put together, and we are pleased with it. Our purpose in this letter is highlight and re-emphasize issues that we believe could make an agreement. The goal is to help the Principal Mediator, President Ruto, and you, the Chief Mediator and your team, to zero in on some of these issues as the basis for brokering a political settlement. We present the issues along the same broad categories on governance, security, economy and social issues, justice, and constitutional making process. Without much ado, the fundamental issues are as follows:

Governance and Political Matters

1. Leadership and Transition

Chief mediator, the whole political crisis in South Sudan is deeply rooted in leadership shortcomings, which resulted in power struggle and violence. We would be dishonest if this peace process does not tackle this leadership challenge. We are leaders in our own right having liberated our country together. We are raising this issue not with the intention of humiliating President Kiir and those he currently shares power with but to tackle the issue of leadership transition as a remedy for what could possibly be a chaotic transition should anything happen to President Kiir.

We are of the view that President Kiir, as an elder, as our first president, and as a liberator, does not deserve humiliation, we want to find a proper mechanism to salvage his legacy and to allow him to leave office in peace and dignity. On the other hand, his continued stay in power without a proper timeline and a plan for his exit would provoke a serious negative reaction amongst the people of South Sudan who are sick and tired of both he and Dr. Riek Machar. They will look at us as having betrayed them if we have nothing to present to them in the form succession plan and democratic transition. Our goal therefore is to balance both sides of this political equation. We must give our citizens a clear path towards democracy while giving President Kiir limited time in office to prepare for his honorable exit from power. To achieve this objective, it is important to understand what the fears of the president are. We believe the President is concerned about the following:

- 1) **Fear of failure and humiliation**—the President may be concerned about being forced out of office and being humiliated and considered to have failed in his leadership.

We propose that the President be given 3 years in office to prepare for an honorable exit by simply not participating in the next presidential elections. This gives him time to do what will salvage his image and something that he can be remembered for in addition to his liberation credentials and his legacy for achieving independence and becoming the 1st President of South Sudan.

- 2) **Fear of unknown**—the president is probably wondering what will become of him after leaving office and what will happen to his family.

We propose that, in the event President Kiir accepts stepping down after 3 years, he will be exempt, because of this agreement, from any form of prosecution for crimes he has committed while in office up to the point of this agreement. We don't want to set a precedence to prosecute our first president and perhaps immediate members of his family. However, this conditioned on him accepting to leave office after an agreed time and to not participate in the next elections.

- 3) **Physical Security**—the President may be concerned about his personal physical safety after leaving office.

The President will be eligible for post-office protection for life catered for by the state. This will give him dignity and a sense of security after leaving office.

- 4) **Fear of prosecution**—the president is probably worried about war crimes and crimes against humanity and possibly economic crimes. To avoid answering these questions, he would rather die in power.

The proposal provided under item 2) applies here.

- 5) **Fear of emptiness**—the president is probably concern about becoming irrelevant and unimportant after leaving office.

The people of South Sudan can afford to fund a presidential library or a farm and any other project that will keep the President busy, relevant, and engaged. This could be one time \$ 5 million dollars for this purpose. The government could also establish an institution in the name of the President to engage in current public affairs. The President can also keep his current residence as we build a proper state house.

- 6) **Physical, psychological, and emotional wellbeing**—it is fair to assume that the President may be concerned about his wellbeing after office.

The people of South Sudan can also afford to take care of the President's health with a personal doctor and any medical referrals.

- 7) **Financial stability**—it is reasonable to assume that the President may not have any savings to cater for his family and personal needs after leaving office.

The President can either keep his salary for life or a specific amount, say \$ 5 million dollars paid over his lifetime.

Chief Mediator, this issue is fundamental to any agreement through the Tumaini Initiative. We must give the people of South Sudan some of hope and one source of hope would be some agreement on leadership transition within a specified limited period. Silence on this or lack of agreement on this would be a major hurdle for peace. A resolution on this is likely to unlock agreement on all the other key issues.

2. Transitional Government

The current Revitalized Transitional Government of National Unity is extremely large. The people of South Sudan are very unhappy with this large government, especially the 5 vice presidents. It would be a betrayal to people's demand if we kept this government as it is. We are proposing the following:

- 1) Presidency: we are keeping two vice presidents (Dr. Riek being one of them) and the president, the other vice presidents become advisers on the clusters they now supervise for only a period of 3 years, after which there shall be elections in which President Kiir and Dr. Machar shall not participate.
- 2) Cabinet: we are proposing a cabinet run by technocrats with the opposition leader taking a prime ministerial position to run the cabinet of 20 ministers, of which five will go to SSOMA and other opposition groups.
- 3) Legislature: We are keeping only the 275 elected members of parliament based on the 2010 elections (179 in the South and 96 to the national parliament in Khartoum). We are giving the Council of States 80 members, each representing a county.
- 4) We are establishing a constitutional court, which shall also be the court for adjudication of disputes on the implementation of the agreement.
- 5) We are implementing federal form of government immediately and state governments shall have 7 ministers and maintain the previously elected members of parliament.
- 6) We are dissolving administrative areas, except Abyei and the federal constitution shall determine the number of states.
- 7) The SSOMA and other opposition groups shall appoint governors to at least 3 of the 10 states during the transition.

3. Permanent Constitution

We value greatly the idea of a constitutional agreement. The people of South Sudan desire a permanent constitution and the Tumaini Initiative is an opportunity to achieve this aspiration for our people. The current political space in South Sudan is not conducive for a free national debate and discourse on the constitution. We therefore consider it critical to hold a national constitutional conference under the auspices of Kenya. We understand the government's concerns about sovereignty and about popular participation. We offer a compromise to the government that popular consultations can be conducted inside the country with the support of UNMISS and the facilitation of the Tumaini Initiative. These consultations though limited, will be combined with

the resolutions of the South Sudan National Dialogue, which captured the views of our people. The delegates will then be elected, including our own delegates, and they will be brought to Kenya for debates and deliberations on the Constitution until the first draft is passed. The process will then move to the country to referendum. The question of sovereignty does not rise at all, because it is the people of South Sudan that will sit and deliberation on the constitution. The people of South Sudan remain sovereign whether sit and talk in South Sudan or in Europe, it wouldn't matter. In fact, we can argue that the lack of political and civic space in South Sudan is more of a threat to our people's sovereignty than finding a neutral space outside the country to decide their future. The people of South Sudan will not forgive us, and we will not sign any agreement that does not a draft constitution. This is the opportunity to realize federalism and other critical structural reforms the country badly needs. President Ruto and you the Chief Mediator would have helped resolved South Sudan crises if you help us with the constitutional conference. There will be on political or security agreement without a constitutional conference conducted here in Kenya.

4. Security Arrangements

SSOMA and other Opposition parties consider the security agreement in the R-ARCSS adequate with serious amendment. The single most important issue with the security arrangement is the unification of forces, which the parties have failed to implement. We are proposing a regional led independent military commission with the support of the international community and the regional protection force and UNMISS to unify South Sudan army. Without the assurance of regional and international support for this process, it is not worth having an agreement.

We are also proposing the dissolution of National Security Service, which has been instrumentalized to supplant the national army and the police. This institution is responsible for growing authoritarian and autocratic rule in South Sudan. We are proposing reconstituting this institution as a national intelligence services without power of arrest or combat.

We are also dissolving Presidential Guard, which has grown over time as a private army of the President, and it is a unit that was responsible for the start of 2013 political violence as well as the 2016 extreme violence in the State House. The people of South Sudan are done with the service of this institution, and we are considering establishing an independent protection unit under the Ministry of Interior which protects all VIPs and does not take orders from any of the beneficiaries of the service.

All parties, including SSOMA and other opposition groups will cease link to the military after full integration of the national army.

The appointment of Chief of Defense Forces (CDF), his deputies, heads of services, the inspector of police, national security Director General and all security services shall be vetted and approved by parliament.

5. The Economy

We are pleased with the provisions of the R-ARCSS on the economic reforms. The most important proposal we are putting on the table is that during the implementation of this agreement and the

constitution, South Sudan financial resources shall be deposited into an escrow account with the World Bank or IMF or the African Development Bank. This is to ensure that resources critical for the implementation of peace and the constitution are safeguarded for use by the government for the assigned purposes outlined in the budget. We also propose quick impact projects to jumpstart the economy and serve as peace dividends for citizens.

6. Justice and Transitional Justice

We agree with the provisions of the R-ARCSS on transitional justice. However, we have the following amendments:

- 1) The South Sudan Hybrid Court should become a regional or international tribunal on South Sudan atrocities.
- 2) President Kiir and Dr. Riek Machar and their immediate families shall be exempt from any domestic, regional, or international prosecution for crimes committed while in office up to the time of the signing of this agreement, if they agree to step down after 3 years and allow the conduct of free and fair elections in which they will not contest. They remain liable for crimes committed while in office if they choose to stay in power or contest for office in the next election, or if they obstruct a smooth transition to democracy.

7. Conclusion

Chief Mediator, we want to collectively thank you for steering this process wisely. It is our hope that President Ruto will consider these key issues and persuade President Kiir to see the need to rescue our country. You may wonder why we have always said we want to rescue the country, here is why:

- 1) South Sudan's national fabric is torn and there is a complete loss of trust and confidence among the people because of the brutality with which the civil war is being fought and the arousal of ethnic sentiments that have accompanied this violent conflict. People are questioning, for the first time, whether it is possible to live in peace once more. These questions are being raised more and more through armed and non-armed secessionist movements. If this trend continues, there is a real possibility of dismemberment of South Sudan, hence the need to rescue it.
- 2) Citizens have also lost trust in their leaders and government and there are strong movements, such as the PCCA that are seeking popular action to push the government out. If such sentiments were to grow stronger and the citizens succeed to topple the government through popular uprising, we could end up extremely chaotic and result uncontrollable violence as we have seen in Sudan. There is therefore a need to give citizens something to place their hopes in and give the political leaders an opportunity to chart a smooth path forward. This process provides that opportunity if bold decisions are made to promise a practical and achievable transition out of crises.
- 3) Economic Hardships—the country is current facing severe economic hardships and citizens are starving. The government is unable to meet its financial obligations such as

paying salaries catering for defense needs, making the government vulnerable. There is a possibility that the country could degenerate into chaos and looting as people gasps for survival. The agreement provides an opportunity to reset relations that could unlock aid opportunities and generate necessary income to make the government solvent again. Without an agreement and political reset, South Sudan face ominous uncertainty.

- 4) Considering all the above, there are persistent rumors of the military, and competing arms of the military and security contemplating staging a coup d'état. This is a real possibility, yet a dangerous possibility. This is because we anticipate various arms of the military confronting each other, possibly along ethnic lines based on the realignment of loyalties. There is therefore a need to reach a comprehensive agreement that generates hopes and a sense of nationalism and unity to forestall these scenarios.
- 5) Lastly, there are legitimately heavily armed groups aligned to the parties in the conflict in Sudan. Without a genuine political settlement that addresses issues of democratic transition, these groups could launch large scale warfare and could possibly defeat the government, but they may also struggle to stabilize the security situation in the country and therefore perpetuate political and security instability.

It is based on all the above that we are appealing to you and President Ruto, to help us rescue our country by prevailing over President Kiir to accept a negotiated transition out of office and to avoid any of the five scenarios highlighted above. The occurrence of any of the above does not favor the President. They all threaten both his rule, his legacy, his family and his own life. A negotiated power transition allows him to exit on his terms and with all due privileges and respect due to former head of state and government. If this is agreed, the other issues on security are linked to President Kiir's stay in power and if this is agreed, there will be no resistance to reforms.

Chief Mediator, we want to reiterate our confidence in the Tumaini Initiative, we have full confidence in President Ruto and in you, Chief Mediator, to help the people of South Sudan to reboot their dying nation and breath a new life into this young, yet malnourished and misgoverned nation. We pledge to work with you and to negotiate with the government in good faith. We assure you of our commitment to restore the power of the people and to defend and protect their freedom, their democratic aspirations, their dignity, and their liberty. We will seek and support a political settlement that restores their hopes, their trust, their unity, and their economic wellbeing.

Thank very much

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NAS Revolutionary Command Council