

LAWS OF THE REPUBLIC OF SOUTH SUDAN

**THE TRANSITIONAL CONSTITUTION OF THE REPUBLIC OF
SOUTH SUDAN, 2011 (AMENDMENT) (NO.6) ACT, 2020**

JANUARY 2020

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SOUTH SUDAN, 2011 (AMENDMENT) (NO.6) ACT, 2020.**

AN ACT to amend the Transitional Constitution of the Republic of South Sudan, 2011 (as amended) to incorporate the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) signed on 12th September, 2018 in Addis Ababa, Ethiopia.

ENACTED by the Transitional National Legislature as follows:-

1. Title and Commencement

- (1) This Act shall be known as the Transitional Constitution of the Republic of South Sudan, 2011 (Amendment) (NO.6) Act, 2020.
- (2) This Act shall come into force on the date of its signature by the President as per the Revitalized Agreement.

2. Authority

- (1) This amendment is in accordance with the provisions set out in Article 199 of the Transitional Constitution of the Republic of South Sudan, 2011 as amended, read together with Chapter VIII of the Revitalized Agreement, which call for a Constitutional Amendment to incorporate the Revitalized Agreement into the Transitional Constitution of the Republic of South Sudan, 2011(as amended).
- (2) This amendment recognizes that the Revitalized Agreement has been ratified by the Transitional National Legislature of the Republic of South Sudan and the National Liberation Council of the Sudan People's Liberation Movement /Army (In

Opposition), and the Leadership organ of South Sudan Opposition Alliance (SSOA).

3. Amendment of the Interpretation provision

In this Act, unless the context otherwise requires,

“Constitution” means the Transitional Constitution of the Republic of South Sudan, 2011 (as amended);

“FDs” means Former Detainees;

“Incumbent TGoNU” means the existing Transitional Government of National Unity;

“Insert the word “Transitional” before the words “National Legislature” and “National Legislative Assembly” throughout the bill according to the context;

“OPP” means Other Political Parties;

“Presidency” means the President, First Vice President and the four Vice Presidents;

“President” means the President of the Republic of South Sudan

“RTGoNU” means Revitalized Transitional Government of National Unity;

“SPLM/A-IO” means Sudan Peoples’ Liberation Movement/Army – In Opposition;

“SSOA” means South Sudan Opposition Alliance;

The words “National Government” or “Government of National Unity” or “Transitional Government of National Unity” shall also mean “Revitalized Transitional Government of National Unity during the Transitional Period throughout this Act;

“TGoNU” means Transitional Government of National Unity;

"TNLA" means the Transitional National Legislative Assembly;

"the Agreement" means the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, signed on 12 September, 2018 in Addis Ababa, Ethiopia.

4. Amendment of the Preamble

The Constitution is amended by modifying the Preamble to read as below:

PREAMBLE

We, the People of South Sudan,

Grateful to the Almighty God for giving the people of South Sudan the wisdom and courage to determine their destiny and future through a free, transparent and peaceful referendum in accordance with the provisions of the Comprehensive Peace Agreement, 2005;

Recalling our long and heroic struggle for justice, freedom, equality and dignity in South Sudan;

Remembering and inspired by the selfless sacrifices of our martyrs, heroes and heroines;

Dedicated to a genuine national healing process and the building of trust and confidence in our society through dialogue;

Determined to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law;

Committed to establishing a decentralized democratic multi-party system of governance in which powers shall be peacefully transferred and to upholding values of human dignity, equal rights and duties of men and women;

Committed to national reconciliation, accountability, healing and putting combat of impunity to be among the highest priorities of the Transitional Government of National Unity;

Cognizant that a federal system of government is a popular demand of the people of South Sudan and there is need for the Revitalized Transitional Government of National Unity to

reflect this demand by way of devolution of more power and resources to lower levels of government and to initiate a federal democratic system of governance that reflects the character of South Sudan and ensures unity in diversity and that these values be taken into account during the Permanent Constitution making process;

Conscious of the need to manage our national resources sustainably and efficiently for the benefit of the present and future generations and to eradicate poverty and attain the sustainable goals;

Mindful of our commitment under the Constitution, to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law;

Deeply regretting the scale of untold human suffering that had befallen our country as a result of disregarding this commitment;

Determined to compensate our people by recommitting ourselves to peace and constitutionalism and not to repeat mistakes of the past;

Recognizing the prime significance of preserving the sovereignty and territorial integrity of our country;

Dedicated to initiating a federal and democratic system of governance that reflects the character of South Sudan and ensures unity in diversity;

Pursuant to the decision of the Inter-Governmental Authority for Development (IGAD) Assembly of Heads of State and Government at its 31st Extra -Ordinary Summit of 12 June 2017, held in Addis Ababa, Ethiopia, which decided to urgently convene a High-level Revitalization Forum of the parties to the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), including estranged groups to discuss concrete measures, to restore permanent ceasefire, full implementation of the ARCSS, and to develop revised realistic timelines and implementation schedule towards democratic elections at the end of the Transitional Period;

Reaffirming the commitments that we have solemnly undertaken in the

ARCSS, the High-Level Revitalization Forum, the Khartoum Declaration and the Agreements on the Outstanding Security and Governance Issues;

Do hereby, through the Transitional National Legislature, incorporate the Agreement into the Constitution and after ratification and signing into law the incorporation Act, the Transitional Constitution of the Republic of South Sudan, 2011 (as amended) shall be the supreme law by which the independent Republic of South Sudan shall be governed during the Transitional Period, and undertake to abide by, respect and defend it.

5. Amendment of Article 1 of the Constitution

Article 1 of the Constitution is amended by modifying sub-article (4) to read as follows:

(4) South Sudan is governed on the basis of a decentralized democratic system and is an all embracing homeland for its people. It is a multi-ethnic, multi-cultural, multi-lingual, multi-religious and multi-racial entity where such diversities peacefully co-exist, provided that during the Transitional Period, the Revitalized Transitional Government of National Unity shall devolve more powers and resources to the lower levels of Government as shall be agreed by the parties.

6. Amendment of Article 3 of the Constitution

Article 3 of the Constitution is amended by modifying sub article (6) to read as follows:

(6) Upon the incorporation of the Agreement into the Constitution, by the National Legislature, the National Legislature shall transform itself into the "Transitional National Legislature".

7. Amendment of Article 5 of the Constitution

Article 5 of the Constitution is amended by inserting a new sub-article (e) immediately after sub article (d) and renumbering the previous sub article(e) as (f) to read as follows:

(e) the Agreement during the Transitional Period;

(f) any other relevant source

8. Amendment of Article 10 of the Constitution

Article 10 of the Constitution is amended by inserting the word "Hybrid Court for South Sudan" after the words "Supreme Court" and before the conjunction "and".

9. Amendment of Article 16 (4) (a) of the Constitution

Article 16 (4) (a) of the Constitution is amended by deleting the words "twenty five per cent" and substituting it with the words "at least thirty five per cent".

10. Insertion of a new Article 40A

The Constitution is amended by inserting a new article 40A immediately after article 40 to read as follows:

Article 40A. Youth

Having in mind that more than 70 percent of the population in the Republic of South Sudan is under the age of thirty and that the youth are the most affected by the war and represent high percentage of refugees and internally displaced persons, the Parties shall strive to include people of young age in their quotas at different levels.

11. Amendment of Article 48 of the Constitution

Article 48 is amended:

- i) in the heading of sub-article (1) by adding the words "and resources" after the word "powers".
- ii) in sub-article 2(b) by adding "and the use of resources" after the word "powers".

12. The Constitution is amended by insertion of a new Article 51A After 51 to read as follows:

Article 51A. Revitalized Transitional Government of National Unity

- (1) Notwithstanding the provisions of articles 50 and 51 of the Constitution, there shall be established a Revitalized Transitional

Government of National Unity (RTGoNU) in the Republic of South Sudan entrusted with the task of implementing the Agreement.

- (2) The Transitional Period shall commence eight months after the signing of the Agreement or upon final unification of the forces and the term of office shall be thirty six (36) months preceded by eight (8) months of a Pre-Transitional Period.
- (3) Without prejudice to the provisions of sub-article (2) above, the Pre-Transitional Period shall be extended for six (6) months from 12 May 2019 pursuant to the resolution of the meeting of the Parties to the R-ARCSS 2018 dated 3rd May 2019 and for an additional one hundred (100) days with effect from 12th November 2019 pursuant to the resolution of the Tripartite Summit dated 7th November 2019.
- (4) The seat of the RTGoNU shall be in Juba.
- (5) The term and mandate of the RTGoNU shall be for the duration of the Transitional Period until such time that elections are held, except as provided for in the Agreement.

13. Amendment of Article 53 of the Constitution

Article 53 of the Constitution is amended by inserting sub-article (3) immediately after sub-article (2) as follows:

- (3) Notwithstanding the provisions of sub-articles (1) and (2), the mandate of the Revitalized Transitional Government of National Unity during the Transitional period shall be to:
 - (a) implement the Agreement and restore permanent and sustainable peace, security and stability in the country;
 - (b) expedite the relief, protection, voluntary and dignified repatriation, rehabilitation, settlement and reintegration of internally displaced persons and returnees working closely with the United Nations and other international agencies;

- (c) facilitate and oversee a people driven process of national reconciliation and healing through an independent mechanism in accordance with the Agreement, including budgetary provisions for compensation and reparations;
- (d) oversee and ensure that the permanent Constitution making process is successfully carried out and completed before the end of the Transitional Period;
- (e) work closely with the Inter-Governmental Authority on Development (IGAD) PLUS, Member States and Organizations and other partners and friends of South Sudan to consolidate peace and stability in the country;
- (f) carry out radical reforms and transformation of public financial management systems to ensure transparency and accountability;
- (g) ensure prudent, transparent and accountable management of national wealth and resources to build the nation and promote the welfare of the people;
- (h) carry out the functions of government;
- (i) restructure, rehabilitate and ensure radical reform of the civil service;
- (j) design and implement security sector reforms and transformation to include the restructuring and reconstitution of institutions;
- (k) rebuild and recover destroyed physical infrastructure and give special attention to prioritizing the rebuilding of livelihoods of those affected by the conflict;
- (l) reconstitute a complete and independent National Elections Commission to conduct free, fair and credible elections before the end of the Transitional Period and ensure that the

outcome broadly reflects the will of the people;

(m) conduct a national population and housing census before the end of the Transitional Period; and

(n) devolve more powers and resources to State and Local Government levels.

14. Amendment of Article 54 of the Constitution

Article 54 is amended by inserting a new sub-article (2A) immediately after sub-article (2) to read:

2A. Notwithstanding the provision of sub-article (2), the National Legislature consisting of the Transitional National Legislative Assembly and the Council of States shall operate as the Transitional National Legislature during the Transitional period and its joint sittings shall be chaired by the Speaker of the Transitional National legislative Assembly and deputized by the Speaker of the Council of states and its business shall be as prescribed in this constitution.

15. Amendment of Article 55 of the Constitution

Article 55 is amended in sub-article (3) (f) by restating the provision of paragraph (f) as follows:

“Impeach the President, the First Vice President and a Vice President”

16. Amendment of Article 56 of the Constitution

The Constitution is amended by rephrasing Article 56 (2) as follows-

(2) Notwithstanding the provisions of sub-article (1), during the Transitional Period, the Transitional National Legislative Assembly shall be expanded to five hundred and fifty (550) members and be reconstituted as follows:

(a) The incumbent TGoNU: three hundred and thirty two (332) members;

(b) SPLM/A-IO: One hundred and twenty eight (128) members;

(c) SSOA: fifty (50) members;

(d) OPP: thirty (30) members;

(c) FDs: ten (10) members.

(3) The duration and term of the Transitional National Legislative Assembly shall run concurrently with that of the Revitalized Transitional Government of National Unity, as per the terms of the Agreement, until such time when elections are held.

(4) Members of the Council of Ministers who are not members of the Transitional National Legislative Assembly may participate in the deliberations of the Assembly but shall not have the right to vote.

(5) The Speaker of the TNLA shall be nominated by the incumbent TGoNU.

(6) The First Deputy Speaker shall be nominated by SPLM/A-IO.

(7) The Second Deputy Speaker, who shall be a woman, shall be nominated by the incumbent TGoNU.

(8) The Third Deputy Speaker shall be nominated by OPP.

17. Amendment of Article 57 of the Constitution

The Constitution is amended by numbering the sole provision as sub-article (1) and inserting immediately after the sub-article(1) sub-article(2) to read as follows:

(2) The Transitional National Legislative Assembly shall, in the conduct of its business, support the Revitalized Agreement and enact legislation that enables and assists the transitional processes and reforms described in the Revitalized Agreement.

18. Amendment of Article 58 of the Constitution

Article 58 is amended by adding new sub articles after sub article 3 to read as follows:

(3A) Notwithstanding the provisions of sub-articles (1) and (3), the

Council of States shall be reconstituted based on recommendation of the Independent Boundaries Commission in accordance with Chapter 1, Article 1.15 of the Revitalized Agreement:

(3B) If the Independent Boundaries Commission fails to issue its final report, the Council of States shall be reconstituted pursuant to the outcome of the Referendum.

(3C) Without prejudice to the recommendations of the IBC, the Speaker of the Council of States shall be nominated by SPLM/A-IO, Deputy Speaker shall be nominated by the incumbent TGoNU, and shall be a woman, and Deputy Speaker shall be nominated by SSOA.

(3D) For the purpose of regional inclusivity required in a body representing the States, each of the Speaker and Deputy Speakers shall come from former regions.

19. Amendment of Article 63 of the Constitution

Article 63 of the Constitution is amended in paragraph (f) of sub-article (1) by inserting the words "or appointed" between the word "elected" and the word "to".

20. Amendment of Article 66 of the Constitution

Article 66 of the Constitution is amended by modifying sub-article (2) as follows-

(2) Notwithstanding sub-article (1), the duration and term of the reconstituted Transitional National Legislature shall run concurrently with that of the Revitalized Transitional Government of National Unity, as per the terms of the Agreement, until such time when elections are held.

21. Amendment of Article 68 of the Constitution

The Constitution is amended by deleting Article 68 and replacing it with the following modified article-

68. (1) The National Legislature shall hold its first sitting upon convocation by the President within 30 days following the expansion and reconstitution of the Transitional National Legislative Assembly and the establishment of the Council of States in accordance with the provisions of Article 56(1) and 58 or the provisions of the Agreement-whichever is applicable;

(2) a) The sittings of the Transitional National Legislative Assembly shall be chaired by its Speaker, or in his or her absence one of his or her deputies or in their absence any member assigned.

b) The First sitting of the Council of States shall be chaired by the eldest of the members present and elect its speaker and deputy speaker among its members;

(3) The incumbent TGoNU shall appoint the Speaker of the TNLA who shall chair the first meeting of the Transitional National Legislative Assembly.

(4) Without prejudice to Article 101(g) of the Constitution and Chapter 1 article 1.9.3.3 of the Agreement, each House shall determine the dates of commencement and closure of its sessions; and may convene an emergency or extra-ordinary session on the request of half of its members or upon a call from the President with agreement of the First Vice President and the Four Vice Presidents.

22. Amendment of Article 69 of the Constitution

Article 69 of the Constitution is modified and amended by:

i) inserting sub-article (2A) immediately after sub-article (2) to read as follows-

(2A) Notwithstanding the provisions of sub-article (1) and sub-article (2) during the Transitional period the Transitional National Legislative Assembly shall elect a Speaker and three deputies of which one shall be a woman and the Council of States shall elect a Speaker and two Deputies of which one shall be a woman;

ii) deleting sub-article (8) and renumbering sub-article (9) as (8).

23. Amendment of Article 79 of the Constitution

Article 79 of the Constitution is amended by -

- (a) rephrasing its heading to read-

Address by the First Vice President, a Vice President and Statements by Ministers and Governors

- (b) rephrasing sub-article (1) to read-

(1) The First Vice President and a Vice President may request to address the Transitional National Legislative Assembly or the Council of States and the concerned House shall provide an opportunity for hearing such address as promptly as possible; and

- (c) adding the word "Revitalized" before the word "Transitional Government of National Unity" and adding the same word before the word "National".

24. Amendment of Articles 80, 81 and 82 of the Constitution

Articles 80, 81 and 82 are amended by inserting Article 82A immediately after Article 82 to read-

Notwithstanding the provisions of Articles 80, 81 and 82 during the Transitional period "National Government" shall act as "Transitional Government of National Unity" and "National Legislature" as the "Transitional National Legislature" and "National Legislative Assembly" shall act as "The Transitional National Legislative Assembly".

25. Amendment of Article 86 of the Constitution

Article 86 of the Constitution is amended in sub-article (1) by inserting the words "in consultation with the First Vice President and the Four Vice Presidents" between the word "may" and the word "on".

26. Amendment of Article 90 of the Constitution

Article 90 of the Constitution is amended in sub-article (1) by inserting the words "and the Four Vice Presidents" after the words "First Vice President" and before the word "may".

27. Amendment of Article 92 of the Constitution

Article 92 of the Constitution is amended by inserting the words "First Vice President, four Vice Presidents" between the word "President" and the words "the Council of Ministers".

28. Amendment of Article 95 of the Constitution

Article 95 is amended by modifying it to read as follows:

- (1) There shall be established in the Republic of South Sudan a national executive consisting of the President, Vice Presidents, Ministers and Deputy Ministers,
- (2) Notwithstanding sub-article (1) during the Transitional Period, the Executive of the RTGoNU shall comprise the President, the First Vice President, four Vice Presidents, the Council of Ministers and Deputy Ministers.

29. Amendment of Article 97 of the Constitution

Article 97 of the Constitution is amended in sub-article (3) by adding the word "Revitalized" before the word "Peace Agreement".

30. Amendment of Article 100 of the Constitution

Article 100 of the Constitution is amended by deleting sub-article (2) and replacing it with the following new sub-article:-

- (2) Notwithstanding sub-article (1) of this article, during the Transitional Period, the tenure of the President of the Republic of South Sudan shall be thirty (36) months commencing from the end of the Pre-Transitional Period until such a time that elections are held, except as provided for in the Agreement,

31. Amendment of Article 101 of the Constitution

Article 101 of the Constitution is amended by deleting and restructuring the title of the article and its sub-articles to read as follows:-

101. Powers, Functions and Responsibilities of the President

The President shall:

- (a) preserve and protect the sovereignty and territorial integrity of the Republic of South Sudan;
- (b) represent the State, the RTGoNU and the people of South Sudan in its international relations;
- (c) serve as Commander-in-Chief of the unified South Sudan national army and the overall commander of all other organised forces during the Transitional Period;
- (d) appoint and preside over the swearing into Office of the First Vice President, and the four Vice Presidents, Ministers and Deputy Ministers, in accordance with the terms of the Agreement;
- (e) appoint Undersecretaries of the Ministries as proposed by the respective Ministers, vetted and approved by the Council of Ministers;
- (f) appoint Advisors. However, if more than two advisors to the President are appointed, their selection shall take place in consultation with the First Vice President and the Vice Presidents in accordance with the power sharing ratios;
- (g) chair the Council of Ministers;
- (h) chair the National Security Council (NSC);
- (i) chair the National Defence Council (NDC);
- (j) cause the preparation of the annual budget of the RTGoNU by the Minister of Finance and Planning to be presented to the Council of Ministers and the Transitional National Legislative Assembly (TNLA);
- (k) chair the EFMA Board;
- (l) during emergencies, initiate the convening of the TNLA in

consultation with the Speaker, the First Vice President and the four Vice Presidents in accordance with the provisions of the Agreement;

- (m) assent to and sign into law Bills passed by the TNLA;
- (n) supervise the conduct of foreign policy and assent to treaties and international agreements with the approval of the TNLA;
- (o) appoint ambassadors and other senior diplomatic representatives to foreign countries as proposed by the Minister of Foreign Affairs and International Cooperation, vetted and approved by the Council of Ministers.
- (p) 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;
- (q) confirm death sentences, grant pardons, and commute convictions and penalties in accordance with the law;
- (r) confer national honours, both civil and military, in accordance with the laws governing such decorations and medals;
- (s) preside over the swearing into office of heads of Independent Institutions, Commissions and Parastatals, as per the Agreement;
- (t) perform any other function as may be prescribed by the Constitution, the Agreement and the Law.

32. Amendment of Article 102 of the Constitution

The Constitution is amended by inserting a new Article 102A after Article 102 to read as follows:

102A (1) In the event of temporary absence of the President during the interim period, the First Vice President shall act as the President and Commander-in-Chief of the national army and overall commander of all other organized forces.

(2) In the event of the temporary absence of both the President and the First Vice President, the President shall delegate one of the four Vice Presidents to act as the President and Commander-in-Chief of the national army and overall commander of all other organized forces.

(3) In the event that the post of the President falls vacant during the Transitional Period for any reason including mental infirmity or physical incapacity of the office holder, the person to replace the President shall be nominated by the top leadership body of the respective Party as at the signing of the Agreement.

(4) The process of replacement of the President under sub-article (3) of this article shall take place within forty- eight (48) hours.

33. Amendment of Article 103A, 103B and 103C

The Constitution is amended by substituting Article 104A, 104B and 104 C for 103A, 103B and 103C, and Article 104D and inserting them immediately After Article 104

34. Amendment of Art 104

The Constitution is amended by modifying Article 104 and inserting immediately after it the articles below:

104. Appointment and Removal of the Vice President

(1). The Vice President shall be appointed by the President subject to approval by a two thirds majority of all members of the National Legislative Assembly

(2). The Vice President may be removed by the President or by a decision passed by two thirds majority of all members of the National Legislative Assembly. If the post of the Vice President falls vacant for any reason, the President shall appoint a replacement

(3). The Vice President shall fulfill the conditions of eligibility for the office of the President as prescribed by this Constitution

(4). To assume office, the Vice President shall take, before the President, the same oath taken by the President as prescribed by this Constitution.

(5) Notwithstanding the provisions of sub-articles (1)-(4) there shall be a First Vice President and Four vice Presidents during the transitional

period in accordance with Chapter 1 Art.1.5.1 of the Agreement.

35. 104A. Establishment and vacancy of the Office of the First Vice President.

(1) For the duration of the Transition, there shall be established the Office of the First Vice President of the Republic of South Sudan.

(2) The Office of the First Vice President shall cease to exist at the conclusion of the Transitional Period unless otherwise decided in the permanent Constitution.

(3) The Chairman of the SPLM/A-IO shall assume the position of the First Vice President of the Republic of South Sudan for the duration of the Transitional Period.

36. Article 104B. Powers, Functions and Responsibilities of the First Vice -President

The Powers, Functions and Responsibilities of the First Vice President shall be to:

- (a) serve as Commander-in-Chief of the SPLM/A-IO during the Pre-Transitional Period and until the unification of forces;
- (b) serve as the Acting Commander-in-Chief of the unified South Sudan national army and overall commander of all other organized forces in the event of any temporary absence of the President after the unification of the forces;
- (c) chair and oversee the Governance Cluster;
- (d) serve as Deputy Chair of EFMA Board;
- (e) serve as Deputy Chair of the NSC;
- (f) serve as Deputy Chair of the NDC;
- (g) follow up and ensure the implementation of Council of

Ministers' decisions with the relevant Ministries and institutions within the Governance Cluster;

- (h) in the absence of the President, the First Vice President shall chair the Council of Ministers; and

carry out other functions as may be prescribed by law; as long as such laws do not contradict the terms of this Agreement.

37. 104C. Vacancy of the Post of the First Vice President

- (1) In the event that the post of the First 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 top leadership body of the SPLM/A-IO as at the signing of the Agreement. Such a process of replacement shall not exceed forty- eight (48) hours;
- (2) In the event of temporary absence of the First Vice President, the First Vice President shall delegate any of the four Vice Presidents to carry out the functions and duties of the First Vice President as stipulated in the Agreement.
- (3) The process of replacement of the First Vice President under sub-article (1) of this article shall take place within forty- eight (48) hours.
- (4) The successor of the First Vice President shall serve in office until the end of the Transitional Period.

38. Article 104D. Vice Presidents of the Republic of South Sudan.

- (1) There shall be established Offices for Four Vice Presidents during the Transitional Period.
- (2) The four Vice Presidents shall be equal in rank and their offices shall cease to exist at the conclusion of the Transitional

Period.

(3) Each Vice President shall chair his or her Cluster and supervise implementation of the mandate of the Ministries under the Cluster.

(4) The Cluster allocation shall be as follows:

(a) Economic Cluster - Vice President nominated by the incumbent TGoNU;

~~(b) Service Cluster - Vice President nominated by SSOA;~~

(c) Infrastructure Cluster - Vice President nominated by the incumbent TGoNU; and

(d) Gender and Youth Cluster - Vice President nominated by FDs.

(5) In the event that the post of any of the four Vice Presidents falls vacant during the Transitional Period for any reason including mental infirmity or physical incapacity of the office holder, the person to replace that Vice President shall be nominated by the top leadership body of the respective Party as at the signing of the Agreement.

(6) The process of replacement of a Vice President under this article shall be undertaken within forty-eight (48) hours of the vacancy of the post.

(7) The successor of the Vice President shall serve in office until the end of the Transitional Period.

(8) A Vice President shall fulfil the conditions of eligibility for the office of the President under article 98

39. Amendment of Article 106

The Constitution is amended by restructuring article 106 as follows:

- 1) The office of a vice President shall fall vacant in any of the following cases:
 - a) Relief from office in accordance with Article 104(2) with respect to powers of the TNLA;
 - b) Acceptance of his or her written resignation by the appointing authority;
 - c) Mental infirmity or physical incapacity based on an official report submitted by the Medical Commission to the TNLA for information; or
 - d) Death

40. Amendment of Article 106A of the Constitution

Article 106A of the Constitution is amended by deleting, adding and restructuring it to read as follows:

106A. Powers, Functions and Responsibilities to be Exercised by the President, the First Vice President and the Four Vice Presidents through Consultation and Agreement.

- (1) Pursuant to the spirit of the Revitalized Transitional Government of National Unity, there shall be collegial collaboration in decision-making and continuous consultation within the Presidency, between the President, the First Vice President and the Four Vice Presidents to ensure effective governance during the Transitional Period.
- (2) The President shall, in consultation with the First Vice President and the Four Vice Presidents in order to reach at mutual understanding and agreement in accordance with the Agreement and the law, exercise the powers of:

- (a) appointment of constitutional office holders and

judicial officers including state governors;

(b) commissioning, appointment, promotion, retirement and dismissal of officers of the national army and other organized forces with the approval of the National Defence Council or National Security Council, as appropriate;

(c) the nomination and appointment of the members of independent Commissions, interim and ad hoc Commissions and Committees; and

(d) appointment of more than two Presidential Advisors.

(3) The following powers, functions and responsibilities shall be initiated by the President, in accordance with this Constitution and shall require the agreement of the First Vice President and all the Four Vice Presidents:

(a) declaration and termination of state of emergency;

(b) declaration of war; and

(c) convening, summoning or adjourning the Transitional National Legislature for ordinary sessions in consultation with the Speaker of the Transitional National Legislative Assembly.

(4) The following powers, functions and responsibilities may be initiated by either the President, the First Vice President, or any of the four Vice Presidents and shall require the agreement of the others:

(a) initiation of Constitutional amendments, except as provided for in Chapter I, Article 1.17.1 of the Agreement;

(b) initiation of institutional reforms; and

(c) initiation of legislation.

(4) Powers exercised by the President in consultation with the First Vice President, and the four Vice Presidents in supervising the implementation of the reforms outlined in the Agreement in order to reach at mutual understanding and agreement in accordance with this Agreement and the law shall be to:

- (a) oversee the implementation of the Agreement;
- (b) oversee the preparation and consideration of RTGoNU business and programmes; and
- (c) oversee the implementation of laws passed by the Transitional National Legislature.

41. Amendment of Article 106B of the Constitution

Article 106B of the Constitution is amended by modifying its title and deleting, adding and restructuring it to read as follows:

Article 106B. The Presidency.

- (1) The Presidency shall make decisions in the spirit of collegial collaboration.
- (2) The President, the First Vice President, and the four Vice Presidents shall seek to reach agreement on matters of Executive Administration and failure of which by agreement of at least four (04) of them.
- (3) The President, the First Vice President, and the four Vice Presidents shall, in writing, consult regularly in the exercise of their functions.
- (4) Where there is no agreement in the exercise of joint Executive powers listed below, the matter shall be decided by the Council of Ministers, which shall require the agreement of two-thirds of all the members of the Council of Ministers (67%).

(5) The decision of the Council of Ministers shall be final in the:

(a) appointment of Constitutional and Judicial office holders, including State Governors;

(b) appointment and establishment of independent Commissions, interim and ad-hoc Commissions and committees; and

(c) initiation of legislation necessary to implement this Agreement.

(6) The President, the First Vice President, and the four Vice Presidents shall seek to reach agreement on matters of supervision of the implementation of the Agreement, failure of which, decision shall be reached with an agreement of at least four (04) of them, where one must be either the President or the First Vice President.

42. Amendment of Article 108 of the Constitution

Article 108 of the Constitution is amended by deleting, adding and restructuring sub-articles (2) (3) and (4) and adding new sub-articles after sub-article (4) to read as follows:

(2) The Council of Ministers shall comprise thirty five (35) Ministries that shall be organized in clusters.

(3) The Revitalized Transitional Government of National Unity shall ensure that at least thirty five percent of members of the Council of Ministers are women.

(4) The Parties shall strive to ensure that the Minister of Youth and Sports in the RTGoNU shall be less than forty (40) years of age.

(4A) The Council of Ministers shall comprise thirty five (35) Ministries organized in five (5) clusters.

(4B) No other Ministry shall be created during the Transitional Period.

(4C) The Ministries of the Revitalized Transitional Government of National Unity shall be as follows:

a) Governance Cluster with twelve (12) Ministries as follows:

- (i) Presidential Affairs;
- (ii) Cabinet Affairs;
- (iii) Foreign Affairs and International Cooperation;
- (iv) Defence and Veterans Affairs;
- (v) Interior;
- (vi) Peace Building;
- (vii) Justice and Constitutional Affairs;
- (viii) National Security;
- (ix) Parliamentary Affairs;
- (x) Information, Communication Technology and Postal Services;
- (xi) Federal Affairs; and
- (xii) East African Community Affairs.

b) Economic Cluster with eleven (11) Ministries as follows:

- (i) Finance and Planning;
- (ii) Petroleum;
- (iii) Mining;
- (iv) Agriculture and Food Security;
- (v) Livestock and Fisheries;
- (vi) Trade and Industry;
- (vii) Environment and Forestry;
- (viii) Water Resources and Irrigation;
- (ix) Land, Housing and Urban Development;
- (x) Wildlife Conservation and Tourism; and
- (xi) Investment.

c) Service Cluster with five (5) Ministries as follows:

- (i) Higher Education, Science and Technology;

- (ii) General Education and Instruction;
- (iii) Health;
- (iv) Public Service and Human Resources Development; and
- (v) Labour;

d) The Infrastructure Cluster with three (3) Ministries as follows:

- (i) Energy and Dams;
- (ii) Transport; and
- (iii) Roads and Bridges.

e) The Gender and Youth Cluster with four (4) Ministries as follows:

- (i) Gender, Child and Social Welfare;
- (ii) Humanitarian Affairs & Disaster Management;
- (iii) Culture, Museums & National Heritage; and
- (iv) Youth and Sports.

(5) The Ministerial positions shall be allocated as follows:

- (a) The incumbent TGoNU: 20 Ministries;
- (b) SPLM/A-IO: 09 Ministries;
- (c) SSOA: 03 Ministries;
- (d) FDs: 02 Ministries; and
- (e) OPP: 01 Ministry.

43. Amendment of Article 109 of the Constitution

Article 109 of the Constitution is amended-

- (i) in sub-article (2) by inserting the words "and four Vice Presidents" after the words "First Vice President" and before the word "by";
- (j) by amending sub-article 4 and its paragraphs (b) and (c) to read as follows:

(4) Decisions of the Council of Ministers shall be by consensus and

- (a) In the absence of consensus, on procedural and routine matters, decisions shall require a simple majority of the members present;
- (b) In the absence of consensus, on substantive matters pertaining to the Agreement, decisions shall require the agreement of two thirds (67%) of the members present;
- (c) Twenty-three (23) members of the Council shall constitute a quorum of the Council of Ministers provided that the Ministers present include at least six (6) from the opposition.

44. Amendment of Article 110 of the Constitution

Article 110 of the Constitution is amended by modifying and restating the functions of the Council of Ministers as below-

110. Functions, Duties and Responsibilities of the National Council of Ministers

The National Council of Ministers shall:

- (a) ensure the implementation of the Agreement, relevant programs and processes, and national reforms, and lead the revitalized Transitional Government of National Unity in a manner consistent with peace, inclusive governance, and reconciliation;
- (b) prepare, initiate and implement legislation;
- (c) develop Government policies and programs at the national level, and where applicable to sub-national levels;
- (d) manage and allocate resources to support the implementation of these policies and programs, within the framework of the approved national budget of the Revitalized Transitional Government of National Unity;
- (e) 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

- (f) perform any other function or duty as may be prescribed by the Constitution, the Agreement and the law.

45. Amendment of Article 112 of the Constitution

The Constitution is amended by modifying article 112 as follows-

Selection of Ministries and Appointment Procedures for Ministers and Deputy Ministers

- (1) The Parties shall, during the Pre-Transitional Period, agree on the allocation of the Ministerial and Deputy Ministerial portfolios.
- (2) If the Parties fail to agree, the following procedure shall apply:
 - (a) The incumbent TGoNU shall select the first RTGoNU Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter 1, Article 1.10.7 of the Agreement;
 - (b) The SPLM/A-IO shall select the second RTGoNU Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter 1, Article 1.10.7 of the Agreement;
 - (c) The SSOA shall select the third RTGoNU Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter 1, Article 1.10.7 of the Agreement;
 - (d) The Former Detainees shall select the fourth RTGoNU Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter

I, Article 1.10.7 of the Agreement;

(e) The OPP shall select the fifth RTGoNU Ministerial portfolio, from any of the Ministerial sectoral clusters, as described in Chapter I, Article 1.10.7 of the Agreement;

(f) The incumbent TGoNU shall select the sixth RTGoNU Ministerial portfolio, by selecting a Ministerial portfolio from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;

(g) The SPLM/A-IO shall select the seventh RTGoNU Ministerial portfolio, by selecting a Ministerial portfolio from a different Ministerial sectoral cluster to that of its choice of the first Ministerial portfolio;

(h) The SSOA shall select the eight RTGoNU Ministerial portfolio, by selecting a Ministerial portfolio from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;

(i) The Former Detainees shall select the ninth RTGoNU Ministerial portfolio, from a different Ministerial sectoral cluster to that of its choice of first Ministerial portfolio;

(j) Subsequent selections of Ministerial portfolios by the incumbent TGoNU, SPLM/A-IO and SSOA shall continue, on the same rotational basis, and continuing to alternate between the five (5) Ministerial sectoral clusters, until these Parties have their full allocation of RTGoNU Ministerial portfolios, in accordance with the responsibility sharing formula provided in Chapter I, Article 1.10.7 of the Agreement, and the selection of RTGoNU Ministerial portfolios is complete.

(3) In accordance with the agreed guarantee of 35% participation of women in the Executive, the Parties to the RTGoNU shall nominate no fewer than twelve (12)

women to the Council of Ministers in line with Article 14.4 of the Agreement.

- (4) The Parties shall give due consideration to national diversity, including regional representation, in nominating their candidates.
- (5) The nominees to the Council of Ministers shall be appointed and sworn in by the President.
- (6) Unless agreed otherwise, Deputy Ministers' nomination shall follow the same formula mentioned in this Constitution.
- (7) In accordance with the revitalised provisions on the participation of women in the executive, no fewer than three (3) of the Deputy Ministers shall be women.
- (8) The nominated Deputy Ministers shall be sworn in before the President.
- (9) No Assistant President, other Ministers or Deputy Ministers shall be appointed during the Transitional Period.

46. Insertion of a new Article 112A

The Constitution is amended by inserting a new article 112A as follows:

Article 112A. Replacement and Removal Procedures for Ministers and Deputy Ministers

- (1) Each Party may remove its representative in the Council of Ministers and nominate a person to replace him or her by notifying the President within fourteen (14) days of the replacement.
- (2) In the event that a Ministerial post falls vacant during the Transitional 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.

- (3) The person who replaces a Minister shall serve in office until the end of the Transitional Period.
- (4) Where a Deputy Ministerial post falls vacant during the Transitional Period, the replacement shall be nominated by the top leadership body of the party that first nominated that ministerial portfolio, as appointed at the commencement of the Transition, or their duly chosen replacements as Deputy Ministers.
- (5) The person who replaces a Deputy Minister shall serve in office until the end of the Transitional Period.

47. Amendment of Article 114 of the Constitution

Article 114 of the Constitution is amended-

- (a) by deleting sub-article (1) and replacing it with a new sub-article (1) as follows:

- (1) A Minister in the Revitalized Transitional Government of National Unity shall be the head of his or her Ministry and his or her decisions shall prevail therein. However, the National Council of Ministers may review, amend, or cancel such decisions.

- (b) In sub-article (2) (b) by adding the word "Revitalized" before the words "Transitional Government of National Unity".

48. Amendment of Article 115 of the Constitution

Article 115 of the Constitution is amended-

- (a) Throughout the article, by deleting the words, "Transitional National Government" and substituting it with the words "Revitalized Transitional Government of National Unity";

- (b) In sub-article (1), by deleting the words "President" and "First Vice President" and substituting them with the words "President, Presidency and the Council of

Ministers” and further adding the words “in accordance with the Agreement” at the end of the sentence;

(c) In sub-article (2), by inserting the word “Presidency” after the word “President” and before the conjunction “and”

49. Amendment of Article 117 of the Constitution

Article 117 is amended by deleting sub-article (4) and replacing it with a new sub-article and inserting a new sub-article (5) to read as follows:

(4) Provisions of the Transitional Constitution of the Republic of South Sudan and ARCSS on participation of women (35%) in the Executive shall be observed and in particular, in their nomination to the Council of Ministers,

(k) the incumbent TGoNU shall nominate no fewer than six (6) women,

(l) SPLM/A-IO shall nominate no fewer than three (3) women, and

(m) SSOA shall nominate no less than one (1) woman.

(5) The parties shall give due consideration to national diversity, including regional representation, in nominating their candidates.

50. Amendment of Article 117A of the Constitution

Article 117A of the Constitution is amended as follows: -

117A. Notwithstanding the provisions of article 117:

(1) There shall be ten (10) Deputy Ministers during the Transitional Period who shall assist their respective Ministers in the performance of the Ministries’ functions and duties and shall act in the Ministers’ absence.

(2) Deputy Ministers shall be appointed in the following ten (10) Ministries:

- (a) Cabinet Affairs;
- (b) Foreign Affairs and International Cooperation;
- (c) Defence;
- (d) Interior;
- (e) Justice and Constitutional Affairs;
- (f) Finance and Planning;
- (g) Agriculture and Food Security;
- (h) General Education and Instruction;
- (i) Public Service and Human Resources Development; and
Information, Communication, Technology and Postal
Services.

(2) Deputy Ministers shall be appointed following the procedure established in Chapter 1, Article 1.12 of the Agreement.

(3) In accordance with the Constitutional provisions on the participation of women in the executive, no fewer than three (3) of the Deputy Ministers shall be women.

(4) The Deputy Ministerial portfolios shall be allocated as follows:

- (a) Incumbent TGoNU: five (5) Deputy Ministers;
- (b) SPLM/A IO: three (3) Deputy Ministers;
- (c) SSOA: one (1) Deputy Minister; and
- (d) OPP: one (1) Deputy Minister.

(5) No Assistant President, other Ministers or Deputy Ministers shall be appointed during the Transitional Period.

(6) Any appointment of two or more Advisors to the President shall be in consultation with the Parties.

(7) In the event that a Deputy Ministerial post falls vacant during the Transitional Period, the person replacing the Deputy Minister shall be nominated by the top leadership body of the Party that

first nominated that ministerial portfolio, as appointed at the commencement of the Transition.

- (8) The person who replaces a Deputy Minister shall serve in office until the end of the Transitional Period.

51. Amendment of Article 120 of the Constitution

Article 120 of the Constitution is amended in sub-article (2) by deleting the words "Vice President" and replacing it with the new words "Four Vice Presidents".

52. Amendment of Article 121 of the Constitution

The Constitution is amended by modifying Article 121 as below-

121. The President, the First Vice President, the four Vice Presidents, Presidential Advisors, Ministers, and Deputy Ministers of the Revitalized Transitional Government of National Unity, Governors, State Ministers and other constitutional office holders shall be paid such emoluments and other remuneration and, on leaving office, receive such benefits as shall be regulated by law.

53. Amendment of Article 122 of the Constitution

Article 122 of the Constitution is amended by deleting sub-articles (1) and (2) and replacing them with new modified sub-articles as follows-

- (1) Judicial power is derived from the people and shall be exercised by the courts in accordance with the customs, values, norms and aspirations of the people and in conformity with this Constitution, the law and the Agreement.
- (2) There shall be reforms of the Judiciary that shall include the review of the Judiciary Act (2008) during the Transitional Period.
- (3) Notwithstanding the provisions of this article, efforts shall be made to build the capacity of the judicial personnel and

infrastructure.

(4) The Judiciary of South Sudan shall be independent and subscribe to the principle of separation of powers and the supremacy of the rule of law.

54. Insertion of a new Article 122A

The Constitution is amended by inserting a new article 122A to read as follows:

Article 122A. Judicial Reform Committee

- (1) There shall be established an ad hoc Judicial Reform Committee (JRC) to study and make recommendations to the RTGoNU for consideration.
- (2) The JRC shall be chaired by an eminent and independent jurist and its members shall be drawn by the stakeholders from the legal profession.
- (3) The ad hoc JRC shall be composed of:
 - (a) TGoNU: five (5) members;
 - (b) SPLM/A-IO: two (2) members;
 - (c) SSOA: one (1) member;
 - (d) FDs: one (1) member;
 - (e) OPP: one (1) member; and
 - (f) IGAD Representatives: two (2) members.
- (4) The JRC shall be chaired and deputized by the representatives from IGAD.
- (5) 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.
- (6) Upon establishment and operationalisation of the Constitutional Court, all the relevant functions of the Constitutional Court currently exercised by the Supreme

Court, any other court or body shall vest in the Constitutional Court.

55. Amendment of Article 132 of the Constitution

Article 132 of the Constitution is amended by inserting new sub-articles (1A) and (1B) after sub-article (1) to read as follows:

Article 132

(1A). During the Transitional Period, the Judicial Service Commission shall be restructured and reconstituted in accordance with the Agreement.

(1B). The reconstituted Judicial Service Commission (JSC) as provided for under Article 1.19.1.9 of the Agreement shall undertake appropriate judicial reforms and restructuring of the Judiciary during the Transitional Period.

56. Amendment of Article 133(1) of the Constitution

Article 133(1) of the Constitution is amended by,

- i) inserting the words “in consultation and agreement with the First Vice President and the four Vice Presidents” between the word “shall” and the word “appoint”. In sub-article 1;
- ii) inserting the words “in consultation and agreement with the First Vice President and the four Vice Presidents” after the words “County Courts” and before the word “having” in sub-article (2).

57. Amendment of Article 134(2) of the Constitution

Article 134(2) of the Constitution is amended by inserting the words “in consultation and agreement with the First Vice President and the four Vice Presidents” between the word “removed” and the word “by”.

58. Amendment of Article 135(1) of the Constitution

Article 135(1) of the Constitution is amended by adding the words "and Constitutional Affairs" after the word "Justice".

59. Amendment of Article 138 of the Constitution

Article 138 (1) of the Constitution is amended by inserting the word "Revitalized" in sub-article (1) to read as follows:

(1) The Revitalized Transitional Government of National Unity shall have a Civil Service consisting of all its employees who shall impartially carry out the functions assigned to them according to the law.

60. Amendment of Article 140 of the Constitution

Article 140 of the Constitution is amended by rephrasing sub-article (5) to read as follows:

(5) The Civil Service Commission shall, during the Transitional Period, be restructured and reconstituted at the national level in accordance with the Agreement. Functions, powers, terms and conditions of service of the Chairperson, members and employees of the commission shall be regulated by law.

61. Amendment of Article 141 (2) of the Constitution

Article 141(2) of the Constitution is amended by inserting the words "in consultation and agreement with the First Vice President and the four Vice Presidents" after the word "President" and before the words "in accordance".

62. Amendment of Article 142 of the Constitution

Article 142 of the Constitution is amended in sub-article (3) by substituting the words "thirty five percent" for the words "twenty five percent"

63. Amendment of Article 143 of the Constitution

Article 143 of the Constitution is amended by,

i) inserting the word "Revitalized" before the words "Transitional National Legislative Assembly" in sub-article 2(a),

- ii) inserting the words 'and the four Vice Presidents' after the words 'First Vice President' in sub-article 2(b).
- iii) inserting a new sub-article (3A, and 3B) immediately after sub-article (3) to read as follows:

(3A) The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents on the recommendation of the Council of Ministers subject to approval of the Transitional National Legislative Assembly.

(3B) Within two months of the Transitional period, the President shall, in consultation and agreement with the First Vice President and the Vice Presidents,

- (a) nominate the head of the Anti-Corruption Commission and pass his or her nomination to the Transitional National Legislative Assembly for approval;

- (b) harmonize the role of the Anti-Corruption Commission with the Ministry of Justice and Constitutional Affairs/Director of Public Prosecution and the Police, in the fight against corruption; and

- (c) strengthen legal and institutional frameworks of the Anti-Corruption Commission and ensure their enforcement.

64. Amendment of Article 144(1) of the Constitution

Article 144(1) of the Constitution is amended by inserting immediately after new paragraph (d) paragraph (e) and (f) to read as follows:

- (e) involve media, civil society, women's organizations, youth and faith leaders in policy advocacy against corruption and raising public awareness to strengthen capacity of the public to resist and prevent corruption;

- (f) accede to regional and international conventions on fighting corruption particularly to the African Convention on Preventing and

Combating Corruption (AUCPC) and the UN Convention Against Corruption (UNCAC), and coordinate with their respective implementation mechanisms and other institutions to recover and return misappropriated funds and assets.

65. Amendment of Article 145 of the Constitution

Article 145 of the Constitution is amended by inserting a new sub-article (1A) after sub-article (1) to read as follows:-

(1A) During the Transitional Period, the Human Rights Commission shall be restructured and reconstituted at the national level in accordance with the Agreement.

66. Amendment of Article 147 of the Constitution

Article 147 of the Constitution is amended by inserting a new sub-article (1A) after sub-article (1) and modifying sub article (2) to read as follows:

(1A) During the Transitional Period, the Public Grievances Chamber shall be restructured and reconstituted at the national level in accordance with the Agreement.

(2) The Chairperson, Deputy Chairperson and members of the Chamber shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents from persons of proven integrity, competence and shall be non-partisan and impartial.

67. Amendment of Article 148 of the Constitution

The Constitution is amended in Article 148-

i) by inserting a sub-article (4) after sub-articles (1), (2) and (3) as follows-

(4) Notwithstanding the provisions of sub-articles 1, 2 and 3 during the Transitional Period-

(a) The Relief and Rehabilitation Commission shall be restructured and reconstituted at the national level in accordance with the Agreement.

(b) The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents.

ii) by inserting a new Article 148A immediately after Art 148 spelling out activities to be undertaken by parties to the Agreement during the interim period-

Article 148A. Agreed Principles for Humanitarian Assistance

(1) During the Pre-Transitional Period and throughout the Transition, the Parties shall create an enabling political, administrative, operational and legal environment for the delivery of humanitarian assistance and protection.

(2) In addition to the Permanent Ceasefire obligations described in Chapter II of the Agreement, the warring Parties, shall ensure:

(a) secure access to civilian populations in need of emergency humanitarian assistance and protection, including establishment of safe humanitarian corridors; and

(b) the right of Refugees and Internally Displaced Persons (IDPs) to return in safety and dignity and to be afforded physical, legal and psychological protection. The RTGoNU shall immediately institute programmes for relief, protection, repatriation, resettlement, reintegration and rehabilitation of Internally Displaced Persons (IDPs) and returnees, in coordination with the United Nations and other relief and humanitarian agencies.

(3) The RTGoNU shall offer special consideration to conflict-affected persons in the provision of public services delivery, including access to health and education services and grant the host communities the same benefit, protection and humanitarian

services.

- (4) In this article, unless the context otherwise requires, "conflict-affected persons" include children, orphans, women, widows, widowers and persons wounded during war.

68. Amendment of Article 149 of the Constitution

The Constitution is amended (1) in Article 149-

- i) by inserting a new sub-article (1A) after sub-article (1) to read as follows:

(1A) During the Transitional Period,

- a) the Demobilization, Disarmament and Re-Integration Commission shall be restructured and reconstituted at the national level in accordance with the Agreement.

(b) The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents.

- ii) by adding a new sub-article (4) after sub-article (3) to read as follows:

(4) Notwithstanding the provision of sub article (3):

- (a) The Commission shall be reconstituted within 30 days following the signing of the Agreement;
- (b) the disarmament, demobilization and re-integration of persons with special needs that are ineligible; or not willing to serve in the unified army shall commence at the beginning of the pre-transitional period and continue in parallel with the unification process; and
- (c) throughout the Transitional Period, training of personnel selected for the military, police, security and other services shall continue and a programme of disarmament, demobilization and reintegration for ineligible personnel shall continue.

69. Amendment of Article 150 of the Constitution

Article 150 of the Constitution is amended by inserting sub-article (2A) immediately after sub-article (2) to read as follows-

(2A) Notwithstanding the provision of sub-article (2) during the Transitional Period, The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents.

70. Amendment of Article 151 of the Constitution

Article 151 of the Constitution is amended in its sub-articles (1) and (2) to read as below-

(1) The South Sudan Armed Forces, SPLM/A-IO forces, and other Opposition Armed Groups shall jointly constitute the national armed forces of the Republic of South Sudan pending the final unification of forces as per the Agreement.

(2) South Sudan Armed Forces, SPLM/A-IO forces and other Opposition Armed Groups after unification shall be transformed into a unified national army and shall be non-partisan, national in character, patriotic, regular, professional, disciplined, productive and subordinate to the civilian authority as established under this Constitution and the law.

71. Amendment of Article 152 of the Constitution

Article 152 of the Constitution is amended by inserting new paragraphs (d) (e) (f) immediately after paragraph (c) and re-ordering them to read as below:

(d) respect and ensure full compliance with international humanitarian law;

(e) protection of human rights of civilians at all times to ensure safety and dignity of individuals and communities;

(f) protection of the needs of women, girls and those of other groups with special needs.

72. Amendment of Article 153 of the Constitution
The Constitution is amended in Article 153-

i) by deleting sub-article (1) and replacing it with the following new sub-articles-

(1) The President of the Republic of South Sudan shall be the Commander-in-Chief of the unified national army and the overall Commander of all other organized forces during the Transitional Period.

(2) Notwithstanding sub-article (1) of this article, during the Pre-Transitional Period or until the end of the unification of the armed forces, the command structure shall be as follows:

(a) the incumbent President shall be the Commander-in-Chief of the SSAF;

(b) the Chairman of the SPLM/A-IO shall be the Commander-in-Chief of the SPLM/A -IO;

(c) all heads of Opposition Armed Groups shall continue as Commanders in Chief of their forces until the end of the Pre-Transitional Period or until the end of the unification process;

(d) the Joint Defence Board (JDB) shall be formed at the level of the Chiefs of Staff and Directors General of National Security Service, Police, and all other organized forces to exercise command and control over all forces during the Pre-Transitional Period;

(e) the process of unification of the forces shall be overseen by the Joint Transitional Security Committee as set forth in the Agreement; and

(f) the shared unified command at the strategic level shall consult and coordinate with each other on matters related to commissioning and promotion, retirement and dismissal of officer.

(3) Notwithstanding paragraph (d) of sub-article (2), the Commander-in-Chief after Unification shall commission, promote, retire or dismiss officers of the national armed forces in consultation with the First President and the Four Vice Presidents in order to reach a mutual understanding and agreement.

ii) (3) by deleting the word "national" and replacing it with the word "unified" in sub-article (3).

73. Amendment of Article 154 of the Constitution

The Constitution is amended in Article 154 by inserting immediately after Article 154 Article 154A as below-

154A Notwithstanding the provisions of Article 154, during the Transitional Period-

- (1) There shall be established a consultative body which shall be known as the National Defence Council;
- (2) The command Councils of the opposition armed groups will operate separately until unification.

74. Amendment of Article 155(4) of the Constitution

Article 155(4) of the Constitution is amended by adding the words "in consultation and agreement with the First Vice President and the four Vice Presidents" after the word "President".

75. Article 160 of the Constitution is amended by deleting, adding and restructuring it to read as follows-

- (1) There shall be established a security service to be known as the National Security Service.
- (2) The National Security Service shall have two operational organs, namely:
 - a) Internal Security Bureau; and
 - b) General Intelligence Bureau.

(3) The National Security Service shall be charged with the internal

and external security of the Country and its people.

- (4) The two operational organs shall be under the Ministry of National Security.
- (5) The structures, mission, mandate, functions and the terms of service of its personnel shall be prescribed by law.

76. Amendment of Article 162 of the Constitution

Article 162 of the Constitution is amended by inserting immediately after sub-article (3) new articles to read as follows:

Article 162. Number and Boundaries of States of South Sudan

- (4) Notwithstanding the provisions of sub articles (1), (2) and (3) of this article, the IGAD Executive Secretariat, shall within two weeks of the signing of the Revitalised ARCSS, taking into account the decision of the 55th Extra- Ordinary Session of the IGAD Council of Ministers held in Addis Ababa, Ethiopia, January 30-31, 2016, appoint an Independent Boundaries Commission (IBC) for the Republic of South Sudan.
- (5) The IBC shall consist of fifteen (15) members with the necessary skills and expertise.
- (6) Members of the IBC shall be nominated as follows:
 - (a) Five (5) members to be nominated by the incumbent TGoNU;
 - (b) Five (5) members to be nominated by opposition groups where two (2) shall be from SPLM/A-IO, one (1) shall be from SSOA, one (1) shall be from FDs, and one (1) shall be from OPP; and
 - (c) Five (5) highly experienced C5 members to be nominated by the Member States of the African Union High-Level Ad Hoc

- (7) The IBC shall be chaired by a non-South Sudanese member who shall be of recognized standing and integrity and who should have served in a senior judicial, executive or administrative position in his or her home country.
- (8) The IBC may retain the services of a team of experts from South Sudan, the IGAD region, AU, the Troika, and the international community as required.
- (9) If found appropriate, the IBC shall establish three teams, each consisting of five representatives and relevant experts, to be deployed at locations it will designate.
- (10) The function of the IBC shall be to consider the number of States of the Republic of South Sudan, their boundaries, the composition and restructuring of the Council of States and to make recommendations on the same.
- (11) The IBC shall study all viable alternatives in the light of guidelines that shall be drawn beforehand and right at the beginning of its work.
- (12) The IBC shall also draw its own internal regulations and adoption of the guidelines and internal regulations shall be by simple majority of the IBC.
- (13) The IBC shall strive to adopt its final report by consensus and if consensus is not achieved, the IBC shall adopt its final report by a decision that shall be supported by at least seven (7) of its South Sudanese members.
- (14) The recommendations of the IBC shall be presented to the IGAD Executive Secretariat and shall be immediately communicated to the Parties.
- (15) The Parties agree to abide by the recommendations of the

IBC, and hereby authorize the IGAD Executive Secretariat to enshrine the same in the Revitalised ARCSS as an addendum.

- (16) The Parties accept to implement the recommendations in full at the beginning of the Transitional Period.
- (17) The IBC shall complete its work within a maximum of ninety (90) days that shall not be extendable.
- (18) Upon issuing the final report of the IBC the Council of States shall be reconstituted as shall be recommended by the IBC.
- (19) If the IBC failed to issue its final report the Council of States shall be reconstituted pursuant to the outcome of the referendum.
- (20) In the unlikely event of the IBC failing to make its final report before the end of its term, the IBC shall be automatically transformed on the 90th day of its term into Referendum Commission on Number and Boundaries of States (RCNBS) of the Republic of South Sudan.
- (21) The RCNBS shall work under the direct supervision and support of the African Union and the IGAD, and pursuant to international guidelines, and shall conduct the referendum before the end of the Pre-Transitional Period.
- (22) The referendum shall be conducted on the number and boundaries of States of the Republic of South Sudan; taking into account the positions advanced by the Parties.
- (23) The question or set of questions that shall be posed in the referendum shall be the same for the entire country unless it is decided in the RCNBS that each State shall have different question or set of questions more understandable to the people.
- (24) Annex E (Mediation Proposal of August 19, 2018) to the

Agreement shall apply notwithstanding any provision to the contrary.

(25) Without prejudice to the provisions of Article 1.15.1 - 1.15.16 of the Agreement,

(a) immediately upon the signing of the Revitalised ARCSS, the IGAD Mediation shall appoint a Technical Boundary Committee (TBC) to define and demarcate the tribal areas of South Sudan as they stood on 1 January 1956 and the tribal areas in dispute in the country;

(b) the TBC shall consist of suitable number of experts drawn from IGAD and Troika Countries;

(c) the TBC shall receive presentations from local communities and any South Sudanese and study them and it shall finish its work within sixty (60) days;

(d) the decision of the TBC shall be by consensus and if consensus is not achieved, decision shall be by simple majority and any dissenting view shall be recorded;

(e) immediately upon completion of its work, the TBC shall present its report including dissenting views, if any, to the IGAD Mediation;

(f) the IBC and RCNBS shall take full account of the report of the TBC which shall form the basis for their decision and formulation of the question for the referendum;

(g) in the event that any tribe claims that the TBC report is violated, that tribe is entitled to resort within a maximum of two years of the alleged violation to arbitration and bring its case against the RTGoNU or any subsequent government of the Republic of South Sudan before the Permanent Court of Arbitration at

The Hague; and

- (h) the RTGoNU or any subsequent government shall abide by the arbitration award and shall introduce any required state boundary rectifications.

77. Amendment of Article 163(7) of the Constitution

Article 163 (7) of the Constitution is amended by deleting the words "twenty five per cent" and substituting it with the words "thirty five per cent".

78. Amendment of Article 164 of the Constitution

Article 164 of the Constitution is amended by:

- (i) rephrasing sub-article (1) as below:

(1) (a) The existing State legislatures shall be known as State Legislative Assemblies. They shall comprise of the current elected members.

(b) Notwithstanding sub-article (a) during the Transitional period, State Legislative Assemblies or Administrative Areas Legislative Councils shall be reconstituted at the beginning of the Transitional Period in accordance with the following sharing ratios:

- (a) the incumbent TGoNU: 55%;
- (b) SPLM/A-IO: 27%;
- (c) SSOA: 10%; and
- (d) OPP: 08%."

- (ii) inserting immediately after sub-article 4(b) a new sub-article 4 (b)(1) to read as follows:

4(b)(1) Provided that when a governor or Administrative Area Administrator is removed during the transitional period under sub-article 4(b), the President shall appoint a person to replace him or her in consultation and agreement with the First Vice President and the four Vice Presidents without recourse to requirements and

procedures of elections;

(iii) Deleting and substituting sub-article 5(b) as follows:

5(b) "The term of a Transitional State Legislative Assembly or Administrative Area Legislative Council shall run concurrently with that of the Revitalized Transitional Government of National Unity as per the terms of the Agreement, until elections are held."

79. Amendment of Article 165

The Constitution is amended in Article 165 by-

(i) Modifying sub-article (1) as below;

(a) There shall be a governor for each state elected by the residents of that state in compliance with the requirements prescribed by the National Elections Commission and in accordance with the Constitution and the relevant State Constitution.

(b) Notwithstanding sub-article (a) there shall be a governor for each state during the Transitional period appointed by the President in agreement with the First Vice President and the Four Vice Presidents according to the agreement and the responsibility sharing ratios for the state executive shall be as follows:

The incumbent TConU	55%
SPLM/IO	27%
SSAO	10%
OPP	8%

(ii) Inserting the following sub-articles covering the interim period immediately after sub-article (1b) as below;

(1c). At the beginning of the Transitional Period, state and local governments shall be re-constituted in accordance with the responsibility sharing formula stated in sub-article (2) of this article.

(1d). In sharing State government positions the Parties shall take into account the relative prominence each Party has in the respective State or county.

(1e). The FDs shall have three (3) State Ministers in States of their choice that shall be deducted from the opposition ratio."

(iii) Inserting sub-article (2A) immediately after sub-article (2) to read:

(2A) Provided that during the transitional period the Governor of each State shall appoint and relieve the Deputy Governor, Advisors and State Ministers in consultation and agreement with the President, First Vice President, the four Vice Presidents and the nominating party and in accordance with the State Constitution and the Agreement.

iv) Inserting sub-article (2B) immediately after sub-article (2A) to read,

(2B) Where a State Governor is removed under this article, the President shall appoint a person to replace him or her in accordance with the Agreement.

(v) Modifying sub-article 5 to read as follows,

"A State Minister may be removed on a motion supported by two thirds of all members of the State Legislative Assembly."

80. Amendment of Article 166 of the Constitution

Article 166 of the Constitution is amended-

(a) in sub-article (3) by inserting the words "First Vice President and the four Vice Presidents" between the word "President" and the word "shall" and

(b) by inserting new sub-articles (4), (5) and (6) after sub-article (3) to read as follows:

(4) Notwithstanding the provisions of sub article (2) and (3) , during the Transitional Period, the local governments shall be reconstituted in accordance with the responsibility sharing formula

(5) The responsibility sharing ratio for the State executive shall be in accordance with the following ratio:

(a) the incumbent TGoNU: 55%;

(b) SPLM/A-IO: 27%;

(c) SSOA: 10%; and

(d) OPP: 08%.

(6) In sharing State government positions the Parties shall take into account the relative prominence each Party has in the respective State or county.

81. Amendment of Article 169 of the Constitution

Article 169 of the Constitution is amended by-

- i) inserting the word "resources" before the word decentralization in sub-article (8); and
- ii) inserting new sub-articles immediately after sub-article (8) to read as below-

9. Political leaders and stakeholders shall ensure that the RTGoNU is transparent and accountable, with legal, institutional, policies and procedures fully functional for sustainable development.

(10) Political leaders and stakeholders shall establish effective leadership and commitment in the fight against corruption and any leader found to have condoned or engaged in corrupt practices shall be held accountable and barred from holding public office in accordance with this Agreement and the law.

(11) The RTGoNU shall develop a code of ethics and integrity for public officials emphasizing the values of honesty and integrity and it shall expand the curriculum in the educational system to inculcate the spirit of nationalism and promote the values of honesty, integrity and respect for public property.

(12) The RTGoNU shall establish a high-level, competent and effective oversight mechanism that shall control revenues collection, budgeting, revenue allocation and expenditure and the oversight mechanism may solicit technical and advisory resources on economic governance from the

regional and international community.

(13) The mechanism shall be guided by principles of mutual consent in accountability.

(14) The wealth of South Sudan shall be shared equitably so as to enable each level of government to discharge its reconstruction, development, legal and constitutional obligations, duties and responsibilities.

(15) The RTGoNU shall undertake immediate and medium-term Economic and Financial Management reform programme.

82. Amendment of Article 171A of the Constitution

The Constitution is amended by deleting, adding and restructuring article 171A to read as follows:-

171A. The RTGoNU shall expedite the following measures relating to the land policy and administration:

- (a) within twelve (12) months of the Transitional Period, initiate an in-depth national debate to review the current national Land Policy and the Land Act, 2009 in order to achieve consensus over land tenure, use, management and address issues of land grabbing, other malpractices involving land, carry out necessary reforms, undertake mapping, and to maximize economic utilization of land in South Sudan;
- (b) within eighteen (18) months of the Transitional Period, establish an independent Registry of Lands at all levels of government for issuance of title deeds;
- (c) empower the Land Commissions at different levels of Government to develop and interpret legislation regarding land issues and to reflect customary laws and practices, local heritage and institutional trends; and
- (d) assist in the mediation of conflicts arising from land.

83. Amendment of Article 172 of the Constitution

The Constitution is amended in Article 172 by inserting a new sub article

(1A) after sub-article (1) to read as below:

(1A) Notwithstanding sub-article (1), During the Transitional Period,

- i) the Land Commission shall be restructured and reconstituted at the national level in accordance with the Agreement.
- ii) The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents.

84. Amendment of Article 173 of the Constitution

Article 173 of the Constitution is amended by-

i) inserting new paragraphs immediately after paragraph (n) in sub-article (2) as follows:

(o) Current employment in the oil sector shall be reviewed given that employment in this sector has not been based on merit and competence, but largely on ethnic, political and regional considerations;

(p) Priority in contracting Service Companies shall be given to qualified nationals of South Sudan. The companies awarded such contracts shall ensure that local communities are given priority in employment;

(q) Oil marketing system including future sales shall be open, transparent and competitive; and any fraudulent dealings shall be checked and severely punished;

(r) The framework for sharing wealth from the extraction of natural resources should balance the needs of service delivery and reconstruction of the producing States;

(s) Communities in whose areas development of subterranean natural resources occur have the right to participate through their respective States in decision making and negotiation of contracts for the exploration, development, production and use of those resources.

ii) Inserting a new sub-article (3) immediately after sub-article (2) to read as follows:

(3) Without prejudice to sub articles (1) and (2) of this article, the RTGoNU shall:

- (a) through the Ministries of Petroleum and Finance and Planning, shall implement the provisions of the Petroleum Revenue Management Act (PRMA), 2012, within three (3) months of the Transitional Period;
- (b) through the Minister of Finance and Planning, the Minister of Petroleum, and the Governor of the Bank of South Sudan mandate the closure of any petroleum revenue accounts other than those approved by law within three months of the start of the Transition;
- (c) Within six (6) months of the Transition, identify, check and record all loans and contracts collateralized or guaranteed against oil for the purposes of transparency and accountability;
- (d) empower the appropriate levels of government to develop, including policies on national and local content, and manage in consultation with the relevant communities, the various stages of oil production within the overall framework for the management of petroleum development; and
- (e) review and audit the previous allocation and transfer of the 2% and 3% made to oil producing States since 2011.

85. Amendment of Article 174 of the Constitution.

Article 174 is amended-

- (a) in sub-article (2) by inserting the words "and the four Vice Presidents" after the words "First Vice President";
- (b) in sub-article (3) by inserting the words 'in consultation with the First Vice President and the four Vice Presidents' between the word 'President' and the word 'in'; and
- (c) in sub-article (4) by inserting the words "in consultation with the First Vice President and the four Vice Presidents" between the word "President" and the conjunction "and".

d) by inserting new sub-articles after sub-article (4) and re-numbering sub-article (5) as sub-article (9) to read as follows:

“(5) The Commission shall be chaired by the President and deputized by the First Vice President.

(6) The National Petroleum and Gas Commission shall play a key role in processing oil contracts.

(7) The National Petroleum and Gas Commission shall award oil concessions in accordance with the provisions of the revised Petroleum legislation.

(8) The RTGoNU shall, within six (6) months of the Transitional Period,

(a) carry out an urgent audit of the Petroleum Sector and empower the National Petroleum and Gas Commission to oversee negotiations with oil companies as well as the award of concessions and licenses; and

(b) review the Petroleum Act, 2012 to broaden the mandate and composition of the National Petroleum and Gas Commission.

(9) The structure, composition, functions, powers, terms and conditions of service of the chairperson, deputy chairperson, members and employees of the Commission shall be regulated by law.

86. Amendment of Article 177 of the Constitution

Article 177 of the Constitution is amended by inserting new sub-articles immediately after sub-article (2) to read as follows:

(3) The established National Revenue Authority (NRA) shall ensure that all revenues are remitted to a “single treasury account” and expenditures are conducted in accordance with the law and budget;

(4) The mandate of the NRA shall be the assessment, collection, administration and enforcement of laws relating to taxation and revenues;

- (5) All revenue collected for or by the National Revenue Authority shall be pooled and administered by the National Revenue Authority in a "single treasury account" and such funds shall include all sub-accounts into which monies due to the National Government are collected, reported, deposited and audited.

87. Amendment of Article 178 of the Constitution

Article 178 of the Constitution is amended by inserting new sub-articles immediately after sub-article (3) to read as follows:

- (4) All oil revenue including surface rentals, training fees and bonuses shall be remitted to the oil account in Bank of South Sudan and withdrawals shall be in accordance with the law and procedures of the Ministry of Finance and Economic Planning.
- (5) The oil revenue funds including the Oil Stabilization Account (OSA) and Future Generations' Fund (FGF) must be prudently managed in accordance with the applicable legislation, in particular the revised Petroleum Act and the revised Public Finance Management and Accountability Act.

88. Amendment of Article 180 of the Constitution.

The Constitution is amended in article 180-

- i) by inserting new sub-articles immediately after sub-article (3) and re-numbering sub-article (4) as (7) to read as follows.
- (4) The RTGoNU shall establish effective, transparent and accountable management of oil and non-oil revenues.
- (5) The RTGoNU shall ensure that all revenues due to the government derived from petroleum and other natural resources are collected centrally into a "single treasury account," and that those revenues are managed and spent responsibly and in accordance with the laws of South Sudan using predictable, auditable processes for the benefit of the people.
- (6) The national, state and local governments are empowered by their

respective constitutions and laws to collect revenue and establish institutions for that purpose.

- (7) The criteria and conditions for allocation of revenue to the states shall be determined by law
- ii) by insertion of a new Article 180A immediately after Article 180 to read as below-

Article 180A. Ministry of Finance and Planning

- (1) ~~The Ministry of Finance and Planning shall within nine (9) months of~~ the signing of the Agreement, review and implement the Strategic Economic Development Roadmap to accelerate progress in achieving a sustainable and resilient national economy in collaboration and coordination with an inter-ministerial departments and, where appropriate, with development partners.
- (2) The Ministry shall ensure that all public financial and budgetary commitments entered into by the RTGoNU are transparent, competitive and in accordance with the laws of the country and internationally accepted norms and practices for the management of public finances.
- (3) The Ministry shall ensure sustainability of public finances across all levels of Government through rigorous adherence to national laws and international standards including PFMA Act, 2011;
- (4) The Ministry shall ensure that the National Budget and the budget at each level of Government addresses national priorities, and the realities on the ground without negatively affecting the macroeconomic stability;
- (5) within nine (9) months of the Transition, review the Constituency Development Fund (CDF) programme in accordance with this Agreement;
- (6) The Ministry of Finance and Planning shall perform all other functions as provided under the Agreement.

89. Amendment of Article 181 of the Constitution

The Constitution is amended in Article 181 of the Constitution is amended-

- i) in sub-article (3) by inserting the words "and the four Vice Presidents" after the words "First Vice President"; and
 - ii) in sub-article (4) by inserting the words "and the four Vice Presidents" after the words "First Vice President".
- ii) by inserting a new Article 181A as below-

90. 181A. Wealth Sharing and Revenue Allocation

- (1) The revenue collected by the National Government shall be allocated to the different levels of government;
- (2) The RTGoNU shall within two (2) months from the start of the Transitional Period, review and reinvigorate the independent Fiscal and Financial Allocation Monitoring Commission (FFAMC), which shall comprise experts nominated by the States and National Government to ensure transparency in regard to the allocation of nationally collected funds to the States and Counties.
- (3) FFAMC regulations and procedures shall be adopted at State and County levels.
- (4) In line with the agreement on the devolution of more powers and resources to the States and Counties, wealth sharing and revenue allocation shall be worked out by the RTGoNU within three (3) months of the commencement of the Transitional Period.
- (5) The proportion of the natural resource wealth of South Sudan shared with the States and counties shall be increased and that the final terms of the increment and formulae to be applied shall be determined in the permanent constitution.
- (6) The RTGoNU shall not withhold an allocation due to a State or Local Government in South Sudan. Any level of Government may initiate proceedings in the courts of law should any other organ or level withhold its duly authorized funds.

91. Amendment of Article 182 of the Constitution

The Constitution is amended by inserting immediately after 182 Article 182A as below-

182A Notwithstanding the provisions of Article 182, the Revitalized Transitional Government of national unity shall undertake and be guided by the following with respect to the Bank of South Sudan during the Transitional period-

- (1) The RTGoNU shall, within ~~(3)~~ three months of the beginning of the Transition, review legislation governing the Bank of South Sudan with a view to restructuring and enabling it to render efficient and effective service. This restructuring shall include, but not be limited to, the leadership, composition, powers, functions and operations.
- (2) The Bank of South Sudan shall adopt comprehensive reforms to improve its supervisory and regulatory functions and prudential regulatory roles.
- (3) The Bank of South Sudan shall have a Board of nine (9) members, at least 3 shall be women appointed by the President in consultation with the First Vice President and the four Vice Presidents.
- (4) The Bank of South Sudan shall be headed by a competent and appropriately-qualified Governor and assisted by two Deputy Governors, appointed by the President in consultation and agreement with the First Vice President and the Four Vice Presidents and approved by a two-third majority of members of the Transitional National Legislative Assembly present and voting.
- (5) Within four (4) months upon the commencement of the Transitional Period, the President shall appoint the Governor of the Bank of South Sudan in consultation and agreement with the First Vice President and the Vice Presidents.
- (6) Restructuring of the bank shall include leadership, composition, powers, functions and operations of the Bank of South Sudan."

(7) The Bank of South Sudan shall be responsible for formulating monetary policy, promoting price, stability, issuing currency, regulating the financial sector, and performing other functions conferred upon it by law.

(8) The Bank of South Sudan shall be independent in its statutory and supervisory functions.

92. Amendment of Article 186 of the Constitution

Article 186 of the Constitution is amended by inserting the words 'and the four Vice Presidents' after the words 'First Vice President' in sub-articles (3), (5)(a), (6) and (8) and adding new sub-articles after sub-article (9) to read as follows:

(9A) During the Transitional Period, the National Audit Chamber shall be restructured and reconstituted at the national level in accordance with the Agreement.

(9B) The RTGoNU shall, within three (3) months of the Transitional Period, review the National Audit Chamber Act 2011 and guarantee its independence.

(9C) The Chamber shall be independent and carry out its functions without political interference.

(9D) The revised National Audit Chamber Act 2011 shall provide for the qualifications of a National Auditor-General, which shall among others, include wide-ranging knowledge of public finance and extensive experience in auditing or public finance management;

(9E) Within four (4) months of the Transitional Period, the President shall in consultation and agreement with the First Vice President, and the four Vice Presidents nominate a National Auditor-General for the approval by the TNLA.

93. Amendment of Article 189 of the Constitution

Article 189 of the Constitution is amended by inserting a new sub-article (1A) after sub-article (1) to read as follows-

1A. Notwithstanding sub-article (1) the President shall declare a state of emergency in consultation with the First Vice President and the Vice Presidents during the Transitional Period.

94. Amendment of Article 190 of the Constitution

Article 190 of the Constitution is amended by-

- i) Numbering the sole provision as sub-article (1) and
- ii) Inserting a new sub-article (2) as below;

(2) Notwithstanding the provisions of sub-article (1) the President shall use the powers of the State of emergency under article 190 in consultation with the First Vice President and the 4 Vice Presidents during the Transitional period.

95. Amendment of Article 191 of the Constitution

Article 191 of the Constitution is amended in paragraph (c) to read as follows:

- (c) issuance of a declaration by the President in Agreement with the First Vice President and the four Vice Presidents lifting the state of emergency.

96. Amendment of Article 192 of the Constitution

Article 192 is amended by inserting Sub-article (1A) after sub-article (1) to read-

(1A) Notwithstanding sub-article(1) the President shall declare war during the Transitional period in consultation with the First Vice President and the Four Vice Presidents whenever the country is under external aggression and such declaration shall be legal and enforceable subject to approval of the National Legislature by two-thirds of all its members.

97. Amendment of Article 193 of the Constitution

(1) Article 193 of the Constitution is amended by-

- i) inserting a new sub-article (1A) after sub-article (1) to read as follows:

(1A) During the Transitional Period, the National Bureau of Statistics shall be restructured and reconstituted at the national level in accordance with the Agreement.

ii) by modifying sub-article (3) to read:

(3) "The President shall in consultation and agreement with the First Vice President and the four Vice Presidents appoint a Board of Directors and the Director General of the Bureau. The Board shall be the highest policy making body of the Bureau; it shall formulate policies and set its internal regulations, priorities, standards and criteria for all the censuses and surveys to be carried out in South Sudan."

98. Amendment of Article 194 of the Constitution

The Constitution is amended by numbering the sole provision as (1) and inserting a new sub-Article 1A after sub-article(1) to read as follows-

(1A). The Revitalized Transitional Government of National Unity shall during the Transitional Period conduct Population Census the outcome of which shall *inter alia*, determine the number of electoral constituencies for the next general elections.

99. Amendment of Article 196 of the Constitution

Article 196 of the Constitution is amended by numbering the sole provision as (1) and inserting the following sub-articles immediately after it-

(2) The National Elections for the President, National Assembly, State Governors and State Assemblies shall be organized sixty(60) days prior to the end of the Transitional period;

(3) Any dispute regarding the priority of the conduct and results of Presidential and Gubernatorial Elections shall be referred to the supreme court for determination. The decision of the Court shall be within 14 days and final. Disputes for other legislative offices shall be handled by other designated competent courts.

100. Amendment of Article 197A of the Constitution

The Constitution is amended by deleting, adding and substituting article 197A to read as follows:

Article 197A. National Elections

- (1) Notwithstanding the provisions of article 197, the provisions of this article shall address elections during the Transitional period.
- (2) Within six (6) months of the signing of the Agreement, the reconstituted National Constitutional Amendment Committee (NCAC) 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 through the Minister of Justice and Constitutional Affairs, and the Act shall permit the open registration of Parties.
- (3) The Executive of the RTGoNU, in consultation with stakeholders, shall reconstitute the Political Parties Council not later than two (2) months after amendment of the Political Parties Act, and no later than four (4) months into the Transitional Period.
- (4) The National Elections Act, 2012 shall be amended to conform to the terms of this Agreement, no later than seven (7) months after the commencement of the Transitional Period.
- (5) No later than twelve (12) months after the commencement of the Transitional Period, the President, in consultation with the Parties to this Agreement and with the approval of the TNLA, shall reconstitute a competent and impartial National Elections Commission (NEC), to conduct elections.
- (6) The Chairperson, Deputy Chairperson and members of the

Commission shall be appointed by the President in consultation and agreement with the First Vice President and the four Vice Presidents.

(7) The appointment in sub-article (4) above shall take into consideration proven integrity, competency, and impartiality.

(8) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, deputy Chairperson, members and employees of the Commission shall be regulated by law.

(9) Sixty (60) days prior to the end of the Transitional Period, the National Elections Commission (NEC) shall organize elections in accordance with the provisions of the Permanent Constitution adopted pursuant to this Agreement, and shall ensure that the outcome is broadly reflective of the will of the electorate.

(10) Within two (2) months of the adoption of the Permanent Constitution, the National Elections Act, 2012, shall be amended to conform to the terms of the Permanent Constitution.

(11) The RTGoNU, shall urgently address challenges of reconstruction, repatriation, resettlement, rehabilitation and reintegration of IDPs and returnees as critical factors affecting peace building and elections.

(12) The reconstituted NEC, may, upon its formation, request the assistance of the United Nations and the African Union in the following areas but not limited to:

- (a) Establishment of subsidiary electoral management bodies at state level;
- (b) Establishment of procedures for the voter registry and targeted voter registration;
- (c) Procurement of electoral material;

- (d) Capacity building;
- (e) Polling and Elections security arrangements;
- (f) Tallying and counting;
- (g) Announcement of election results;
- (h) Complaints procedures;
- (i) Support to civic education and voter outreach.

(13) The NEC may also request additional technical assistance from any other regional or international partners, as it deems necessary.

(14) The voters' register shall be published within six (6) months prior to the holding of elections.

(15) The NEC shall invite and accredit competent and impartial national, regional and international observers to monitor the conduct of the entire electoral process in accordance with the provisions of the amended National Elections Act.

(16) 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 national elections law, and any other relevant legislation.

102. Amendment of Article 199 of the Constitution

Article 199 of the Constitution is amended by deleting the word "Peace" before the word "Agreement" in sub-articles (2) and (3) to read as follows: -

(2) Notwithstanding sub-article (1), the amendment to this Constitution regarding the incorporation of the Agreement into the Constitution shall be deliberated upon and enacted by the Transitional National Legislature within thirty (30) days of the receipt of the amendment from the Minister of Justice and Constitutional Affairs in accordance with the provisions of the Agreement and this provision shall be exceptional and shall cease to have effect after the passage of this amendment or any subsequent amendments to this Constitution.

(3) Any amendment affecting the provisions of the Agreement shall not be introduced without the prior approval of the Parties to the Agreement.

103. Amendment of Article 200 of the Constitution

Article 200 of the Constitution is amended by deleting the word 'Peace' before the word "Agreement".

104. Amendment of Article 201A of the Constitution

The Constitution is amended by deleting, adding and substituting article 201A to read as follows:

Article 201A. TRANSITIONAL INSTITUTIONS AND MECHANISMS

(1) During the Transitional Period, the following existing Commissions and Institutions shall be restructured and reconstituted at the national level, as provided for in the Agreement:

- (a) Anti-Corruption Commission (ACC);
- (b) Public Grievances Chamber (PGC);
- (c) Fiscal, Financial Allocation and Monitoring Commission (FFAMC);
- (d) National Audit Chamber (AC);
- (e) Relief and Rehabilitation Commission (RRC);
- (f) Peace Commission (PC);
- (g) National Bureau of Statistics (NBS);
- (h) Human Rights Commission (HRC);
- (i) Judicial Service Commission (JSC);
- (j) Civil Service Commission (CSC);

- (k) Land Commission (LC);
- (l) Electricity Corporation (EC);
- (m) Refugees Commission (RC);
- (n) South Sudan Broadcasting Corporation (SSBC);
- (o) National Petroleum and Gas Commission (NPGC);
- (p) National Bureau of Standards (NBS);
- (q) Urban Water Corporation (UWC);
- (r) Roads Authority;
- (s) Commission for War Wounded, Widows and Orphans;
and
- (t) Disarmament, Demobilization and Re-integration (DDR)
Commission.

(2) 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.

(3) Without prejudice to other provisions of the Agreement, the RTGoNU shall establish the following new institutions immediately upon the commencement of the Transitional Period:

- (a) Public Procurement and Asset Disposal Authority;
- (b) Salaries and Remuneration Commission;
- (c) Environmental Management Authority (EMA);
- (d) Research and Development Centers for:

- (i) Natural Disasters;
- (ii) Strategic Studies; and
- (iii) Scientific Research,
- (e) Health Care Support Fund; and
- (f) Students Support Fund.

(1) The National legislation to be reviewed include:

- ~~(a) Investment Promotion Act, 2009;~~
- (b) Banking Act, 2010;
- (c) Telecommunications and Postal Services Act, 2010;
- (d) The National Audit Chambers Act, 2011;
- (e) Anti-Corruption Commission Act, 2009;
- (f) Public Finance Management and Accountability Act, 2011;
- (g) Petroleum Act, 2012;
- (h) The Mining Act, 2012;
- (i) Petroleum Revenue Management Act, 2012;
- (j) National Pensions Fund Act 2012; and
- (k) National Revenue Authority Act 2017.
- (l) Non Governmental Organization Act 2016; and;
- (n) National Content Bill, 2013;

(5) Institutions for transitional justice, accountability, reconciliation and healing:

Upon establishment, the RTGoNU, shall initiate legislation for the establishment of the following transitional justice institutions and observing the thirty five percent women representation in accordance with Chapter V of the Revitalized Agreement. The institutions shall include the following.

(6) The Commission for Truth, Reconciliation and Healing (CTRH);

- (a) The RTGoNU shall establish the CTRH as a critical part of the peace building process in South Sudan, to spearhead efforts to address the legacy of conflicts, promote peace, national reconciliation and healing.
- (b) The CTRH shall be established by a legislation, which shall be promulgated not later than three (3) months after the formation of the RTGoNU and commence its activities not later than a month thereafter. Such legislation shall, among others, ~~outline mechanisms and methods for enabling the~~ CTRH to discharge its duties and responsibilities.
- (c) Without prejudice to the administration of and access to justice, the CTRH shall inquire into all aspects of human rights violations and abuses, breaches of the rule of law and excessive abuses of power, committed against all persons in South Sudan by State, non-State actors, and or their agents and allies.
- (d) The CTRH shall inquire into the circumstances, surrounding the aforementioned and any other connected or incidental matters. Such inquiry shall investigate, document and report on the course and causes of conflict and identify or review cut-off timeframes for the operations of the CTRH, as may be determined by legislation, this Agreement or both.
- (e) The CTRH shall recommend processes for the full enjoyment by victims of the right to remedy, including by suggesting measures for reparations and compensation;
- (f) adopt, in the implementation of its mandate, best practices for promoting truth, reconciliation and healing from Africa and elsewhere;

- (g) The CTRH shall implement measures to protect victims and witnesses, in particular, youth, women and children. Such protection measures shall include, but shall not be limited to the conduct of in camera proceedings and the protection of the identity of a victim or witness; and
- (h) The CTRH shall perform such functions as outlined in the Agreement.

(7) The Hybrid Court for South Sudan (HCSS)

- (a) There shall be established an independent hybrid judicial court, the Hybrid Court for South Sudan (HCSS). The Court shall be established by the African Union Commission to investigate and where necessary prosecute individuals bearing responsibility for violations of international law and/or applicable South Sudanese law, committed from 15th December 2013 through the end of the Transitional Period.
- (b) The terms establishing the HCSS shall conform to the terms of this Agreement and the AUC shall provide broad guidelines relating to including the location of the HCSS, its infrastructure, funding mechanisms, enforcement mechanism, the applicable jurisprudence, number and composition of judges, privileges and immunities of Court personnel or any other related matters.
- (c) The HCSS shall have jurisdiction with respect to Genocide, Crimes against Humanity, War Crimes and any other serious crimes under international law and relevant laws of the Republic of South Sudan including gender based crimes and sexual violence.
- (d) The HCSS shall be independent and distinct from the national judiciary in its operations, and shall carry out its own investigations. The HCSS shall have primacy over any national courts of RSS.
- (e) The personnel and appointment procedures for the HCSS shall be as provided by the Agreement.
- (f) The HCSS shall implement measures to protect victims and

witnesses in line with applicable international laws, standards and practices.

(g) Individuals indicted or convicted by the HCSS shall not be eligible for participation in the RTGoNU, or in its successor government(s) for a period determined by law, or, if already participating in the RTGoNU, or in its successor government(s), they shall lose their position in government. If proven innocent, individuals indicted shall be entitled for compensation as shall be determined by law.

(h) The HCSS shall implement measures to protect victims and ~~witnesses in line with applicable international standards and~~ practice.

(8) Compensation and Reparation Authority (CRA)

In recognition of the destructive impact of the conflict to the citizens of South Sudan, the RTGoNU shall within six (6) months from the commencement of the Transitional Period, establish a Compensation and Reparation Fund, (CRF) and Compensation and Reparation Authority, (CRA) to administer the CRF and the CRA shall

(a) be run by an executive body to be chaired by an Executive Director appointed by the RTGoNU as provided under the Agreement;

(b) provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods in accordance with a well-established criterion by the RTGoNU;

(c) manage the Compensation and Reparation Fund, the utilization of which should be guided by a law enacted by the TNLA; and

(d) receive applications from victims including natural and legal persons from CTRH, and make the necessary compensation and reparation as provided for in this Agreement,

(8A) The RTGoNU shall establish transparent mechanisms to control the proper use of these funds for the intended purpose.

(9) Enterprise Development Fund:

The RTGoNU shall:

- (a) identify local, national, sectoral or private sector associations with the view to improving their productivity/efficiency through capacity enhancement and easing access to financing;
 - (b) develop Micro, Small and Medium Enterprises (MSMEs) among rural populations and the urban poor, including but not limited to South Sudan farmers associations, dairy producers associations, poultry producers associations, national private companies in the areas of supply, general trade, construction, and others;
 - (c) implement the recommendations of the Private Sector Development Strategy (PSDS) developed jointly between the South Sudan Business Forum and Ministry of Trade and Industry;
 - (d) establish a Youth Enterprise Development Fund with the goal to bring more youth into economic growth and development; and
 - (e) establish a Women Enterprise Development Fund for provision of subsidized credit for women-based enterprise development and capacity building of women entrepreneurs.
- (9A) The Enterprise Development Fund shall perform any other functions as provided in the Agreement.

(10) Programs for Humanitarian Assistance

The Revitalized Transitional Government of National Unity shall institute programs for relief, protection, repatriation, resettlement, reintegration and rehabilitation of Internally Displaced Persons (IDP)'s and returnees, in coordination with the United Nations and other relief and humanitarian agencies and shall abide by, and implement all provisions and mechanisms for humanitarian assistance and reconstruction in accordance with Chapter III of the Agreement, including the setting up of the Special Reconstruction Fund (SRF).

(11) Special Reconstruction Fund (SRF)

- (1) The RTGoNU, in collaboration and support of international partners and friends of South Sudan, shall establish a Special Fund for

Reconstruction (SRF), within the first one (1) month of the Transition, to be administered by the Board of Special Reconstruction Fund (BSRF), comprising membership drawn from the RTGoNU and international partners and friends of South Sudan.

(2) The composition of the BSRF shall be as provided in the Agreement.

(3) The BSRF shall, in coordination with the RTGoNU, relevant National Ministries, the State and Local Governments, lead in assessing and determining the priorities for reconstruction of infrastructure in the country, with priorities to conflict-affected States and areas.

(4) The BSRF shall prepare a programme and detailed action plan for the reconstruction of conflict-affected States, and other areas to guide the work of the SRF. The said programme shall include but will not be limited to the provision of assistance and protection to IDPs, returnees and families affected by the conflict, and shall be completed within six (6) months of its establishment.

(5) The RTGoNU shall provide the SRF with initial funding of not less than one hundred million dollars per annum for the Transitional Period, and shall cooperate with international donors in the administration of pledges to the Fund.

(6) Within nine (9) months of the establishment of the SRF, the BSRF in collaboration with the Chairperson of IGAD, Chairperson of the African Union Commission (AUC) and the Secretary General of the United Nations (UNSG) shall convene a South Sudan Pledging Conference to raise money to resource this Fund, and to support the implementation of this Agreement. The Fund shall supplement core financing by the RTGoNU.

(12) Public Financial Management

(1) The RTGoNU shall ensure that government finances are managed responsibly and that budget execution is enforced in accordance with the law;

(2) The RTGoNU shall ensure that all its transactions are transparent and

subject to auditing and oversight to promote accountability;

(3) The RTGoNU shall ensure that debts, arrears and prepayments will be audited, fully accounted for, responsibly managed and controlled. New debt and payables will be issued and undertaken in an open, transparent and responsible fashion and shall be contracted strictly in accordance with the law;

(4) The Ministry of Finance and Economic Planning shall identify all loans and contracts collateralized or guaranteed with oil, checked, and made publicly available for the purposes of transparency and accountability;

(5) The National Audit-Chamber shall audit and report on all public funds and financial dealings to relevant institutions generally and in particular to the Transitional National Legislative Assembly or to a State Assembly;

(6) The TNLA shall receive pending reports of the Audit Chamber within six (6) months of the start of the Transitional Period. Subsequent reports shall be received in accordance with the law.

(7) After receiving an audit report, the Transitional National Legislative Assembly and or the State Legislative Assembly, as the case may be, shall immediately debate and consider the report and take appropriate action;

(8) All revenues, expenditures, deficits, and debts of the RTGoNU shall be accounted for and the information shall be made accessible to the public. An annual report which details the RTGoNU financial activities shall be required by the Transitional National Legislative Assembly;

(10) The RTGoNU shall define and adhere to clear lines of authority, public disclosure requirements, and reporting channels amongst the Ministry of Finance and Planning, the Ministry of Petroleum, the Ministry of Mining, and the Bank of South Sudan, other line Ministries, and Transitional National Legislative Assembly in accordance with the law;

(11) The RTGoNU shall reform South Sudan's existing economic and public sector financial management institutions, to ensure that public financial management of oil and non-oil revenues, the exchange rate,

budgetary processes, procurement, management of payroll, public concessions, borrowing, debt and regulatory agencies are effective, transparent and accountable, free from corruption, compliant with international best practices and the laws of the Republic of South Sudan, and that resources are properly allocated and used for the benefit of the people of South Sudan.

(13) Economic and Financial Management Authority (EFMA)

(1) The RTGoNU shall, through legislation, establish an Economic and Financial Management Authority (EFMA), within four (4) months of the Transition, comprised of individuals selected on the basis of a set of criteria by the Board of EFMA as per the Legislation that establishes the Authority.

(2) The mandate of the Authority shall be to provide an effective oversight of economic and public financial management, and to ensure transparency and accountability particularly in the oil/petroleum sector, concessions and contract award, budgetary and public expenditure, revenue collection and other related matters.

105. Amendment of Article 201B of the Constitution

The Constitution is amended by rephrasing Article 201B on Permanent Ceasefire and Transitional Security Arrangements as follows:

(1) The Permanent Ceasefire, provided for in Chapter II of the Agreement, shall apply to all forces of the warring parties and all other forces or militias allied to either party, and shall be based on the Agreement on Cessation of Hostilities (CoHA), Protection of Civilians and Humanitarian Access of 21st December 2017, and its implementation modalities matrix.

(2) The Parties shall refrain from all prohibited actions outlined in the CoHA of 21st December 2017 including acts outlined in Chapter II, Article 2.1.10 of the Agreement.

- (3) The Parties shall ensure that all non-South Sudanese armed groups leave the country within the Pre-Transitional Period.
- (4) The Pre-Transitional Period shall start on D-Day and continue up to the completion of the training and redeployment of the necessary unified forces as provided for in the R-ARCSS and as stipulated in Article 51A (2) and (3) of the Constitution.
- (5) Civilian areas shall be immediately demilitarized. This includes schools, service centres, occupied houses, internally displaced persons camps, protection of civilian sites, villages, churches, mosques, ritual centres and livelihood areas.
- (6) Throughout the Transitional Period training of personnel selected for the military, police, security and other services shall continue and the Programmes of DDR shall continue for ineligible personnel.
- (7) Building of the national army, police, national security service and other organized forces shall be completed before the end of the Transitional Period.
- (8) All the Heads of Opposition Armed Groups shall continue as Commanders-in- Chief of their forces until the end of Pre-Transitional Period or until the end of the unification process. The other mechanisms for security arrangement shall be as outlined in Chapter II, Article 2.4 of the Agreement and the annexes.
- (9) The current Strategic Defence and Security Review (SDSR) shall be reconstituted during the Pre-Transitional Period of the Agreement through the restructured Multi-Stakeholder Revitalized Strategic Defence and Security Review Board (RSDSRB) comprised in accordance with Chapter II, Article 2.5 of the Agreement and its annexes.

106. Insertion of Article 201C

The Constitution is amended by inserting a new article 201C as follows:

Article 201C: The National Constitutional Amendment Committee (NCAC)

- (1) Upon the signing of the 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 competencies.
- (2) The re-constituted Committee shall complete the tasks necessary to prepare for the Transitional Period and the formation of the RTGoNU and its mandate shall extend up to a maximum of twelve (12) months into the Transitional Period to draft new or revise, as appropriate, other legislation as provided for in the Agreement.
- (3) The Committee shall be re-constituted and operate in accordance with the Agreement.

107. Insertion of a new Article 201D

The Constitution is amended by inserting a new article 201D as follows.

Article 201D. Re-constituted Joint Monitoring & Evaluation Commission

- (1) Upon the signing of this Agreement, the Joint Monitoring and Evaluation Commission (JMEC) shall be reconstituted within fifteen (15) days.
- (2) The membership of the Reconstituted Joint Monitoring and Evaluation Commission shall comprise representatives of the Parties to this Agreement, other South Sudanese stakeholders, and regional and international guarantors and partners of South Sudan.
- (3) The RJMEC shall be responsible for monitoring and overseeing the implementation of the Agreement and the mandate and tasks of the RTGoNU, including the adherence of the Parties to the agreed timelines and implementation schedule. In case of non-implementation of the mandate and tasks of the RTGoNU, or other serious deficiencies, the RJMEC shall recommend appropriate corrective action to the RTGoNU.

(4) The RJMEC shall oversee the work of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM), the Economic and Financial Management Authority (EFMA), the Strategic Defence and Security Review Board (SDSRB), the National Elections Commission (NEC), and all other transitional institutions and mechanisms created by this Agreement.

(5) The RJMEC shall brief regularly the Executive of the RTGoNU, and submit written reports, followed by detailed briefings, to the RTGoNU Council of Ministers, the Transitional National Legislative Assembly, the Chairperson of the IGAD Assembly of Heads of State and Government, Chairperson of the IGAD Council of Ministers, the Chairperson of the African Union Commission, the Peace and Security Council (PSC) of the African Union and to the Secretary-General and Security Council of the United Nations on the status of implementation of this Agreement every three (3) months.

108. Insertion of Article 201E.

Article 201E. Amendment to the Agreement.

The Agreement may be amended by the Parties, with at least two-thirds of the members of the Council of Ministers, and, at least two-thirds of the voting members of the Joint Monitoring and Evaluation Commission as per Chapter VIII, Article 8.4 of the Agreement, consenting to the amendment, followed by ratification by the Transitional National Legislature, according to the constitutional amendment procedures set out in this Constitution.

109. Amendment of Article 202 of the Constitution

The Constitution is amended by deleting Article 202 sub-articles (3) up to (11) and replacing them with the following modified sub-articles-

Article 202. Parameters of Permanent Constitution

- (1) Notwithstanding the provisions of sub-articles (1) and (2) of this article, the executive of the Revitalized TGoNU shall, after adequate consultations with all stakeholders including the

political parties, civil society organisations, women groups, youth, faith-based groups, reconstitute the existing National Constitutional Review Commission and appoint a preparatory sub-committee for convening a National Constitutional Conference in accordance with the Act governing the constitution making process.

(2) The RTGoNU shall initiate and oversee a permanent Constitution-making process during the Transitional Period.

(3) The process shall be based on the principles of:

(a) supremacy of the people of South Sudan;

(b) a Federal and democratic system of government 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;

(c) guaranteeing peace and stability, national unity and territorial integrity of the Republic of South Sudan;

(d) Promoting people's participation in the governance of the country through democratic, free and fair elections and the devolution of powers and resources to the states and counties;

(e) respecting ethnic and regional diversity and communal rights, including the right of communities to preserve their history, develop their language, promote their culture and expression of their identities;

(f) ensuring the provision of the basic needs of the people through the establishment of a framework for fair and equitable economic growth and access to national resources and services;

(g) promoting and facilitating regional and international cooperation with South Sudan;

(h) committing the people of South Sudan to peaceful resolution of national issues through dialogue, tolerance, accommodation and respect of others opinions.

- (3) The reconstituted TNLA shall within the first six (6) months of Transitional Period enact a legislation to govern the constitutional making process;
- (4) The permanent Constitution shall be completed not later than twenty-four (24) months following the establishment of the Transitional Period and shall be in place to guide the elections toward the end of the Transition.

110. Insertion of a new Article 202A

The Constitution is amended by adding a new article 202A after article 202 to read:

Article 202A. Phases of the Constitution Making process

- (1) The following phases of Constitution-making process shall be completed within twenty-four (24) months of the Transitional Period as per the timetable stipulated in the implementation mechanism process except for the transformation of the TNLA into a constituent assembly to adopt the new constitution which shall be defined by law;
- (2) The Executive of the Revitalized TGoNU after adequate consultations with all stakeholders including the political parties, Civil Society Organizations, Women groups, youth and Faith-based groups, shall reconstitute the National Constitutional Review Commission (NCRC) and appoints a preparatory sub-committee for convening a National Constitutional Conference in accordance with the Act governing the constitution making process.
- (3) During the fourth month of the Transitional Period, a workshop shall be convened for the Parties to the R-ARCSS by the RIMEC to agree on the details of conducting the Constitutional-making process.

- (4) The workshop shall be moderated and facilitated by an institute renowned internationally for constitution making.
- (5) The outcome of the workshop shall form the basis for drafting the legislation to be enacted to govern the Constitution-making process.
- (6) The Constitutional Text adopted by the Constitutional Conference shall be presented by the Minister of Justice and Constitutional Affairs to a Constituent Assembly for deliberation and adoption.
- (7) The Parties agree that the Transitional National Legislature shall be transformed into a Constituent Assembly on the 1st date of the 27th month of the Transition for purposes of adopting the Permanent Constitution after which it shall be dissolved preceding the elections.
- (8) In drafting the Permanent Constitution, lessons shall be drawn from South Sudan common law, constitutional history and experience and the Agreement.
- (9) The process of permanent Constitution-making shall be led and owned by the people of South Sudan.
- (10) The RTGoNU shall review the ongoing permanent Constitution-making process and reconstitute the National Constitutional Review Commission (NCRC).
- (11) In order to ensure quality of participation and inclusiveness in the reformulated Constitution review process, the composition of the reconstituted NCRC shall include but not be limited to representatives of the RTGoNU, Political Parties, faith-based groups, women groups, youth, ethnic minorities, representatives of the private sector, CSO groups, academics, people with special needs and other professionals. The process of appointment shall be as defined in the reviewed and enacted legislation governing the constitution-making process.
- (12) The RTGoNU shall provide in its budgetary provisions adequate

funding for the Constitution making process.

(13) The RTGoNU and the NCRC shall seek the assistance of regional and international experts to benefit from the experience, expertise and best practices to assist in the Constitution-making process

111. Insertion of a new Article 202B

The Constitution is amended by inserting a new Article 202B to read as follows:

Article 202B. Assent to the Amendments

Notwithstanding the provisions of article 85(1) of this Constitution, the President shall assent to the Amendments no later than the end of the Pre-Transitional Period as per the Agreement.

Article 203 Application of the Transitional Constitution of the Republic of South Sudan, 2011

National Elections and its processes shall be governed by the Transitional Constitution of the Republic of South Sudan, 2011 before coming into force of the Permanent Constitution.

Assent of the President of the Republic of South Sudan

In accordance with the provisions of Article 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011 (as amended), I, H.E. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby assent to The Transitional Constitution of the Republic of South Sudan, 2011 (Amendment) (No.6) Act 2020 and sign it into law.

Signed under my hand in Juba, this 19th day of the month of FEB, in the year 2020.



H.E Salva Kiir Mayardit
President,
Republic of South Sudan
Juba.