



**Reconstituted Joint Monitoring and Evaluation Commission
(RJMEC)**

REPORT

BY

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**ON THE STATUS OF IMPLEMENTATION OF THE REVITALISED
AGREEMENT ON THE RESOLUTION OF THE CONFLICT IN THE
REPUBLIC OF SOUTH SUDAN**

FOR THE PERIOD

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List of Acronyms

<i>AUC</i>	<i>African Union Commission</i>
<i>BoSS</i>	<i>Bank of South Sudan</i>
<i>CDC</i>	<i>Constitutional Drafting Committee</i>
<i>CSOs</i>	<i>Civil Society Organisations</i>
<i>CTSAMVM</i>	<i>Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism</i>
<i>CTC</i>	<i>CTSAMVM Technical Committee</i>
<i>DPOC</i>	<i>Dar Petroleum Operating Company</i>
<i>DDR</i>	<i>Disarmament Demobilization and Reintegration</i>
<i>GPOC</i>	<i>Greater Nile Petroleum Operating Company</i>
<i>IGAD</i>	<i>Intergovernmental Authority on Development</i>
<i>IDPs</i>	<i>Internally Displaced Persons</i>
<i>JRC</i>	<i>Judicial Reform Committee</i>
<i>JSC</i>	<i>Judicial Services Commission</i>
<i>JTSC</i>	<i>Joint Transitional Security Committee</i>
<i>MoJCA</i>	<i>Ministry of Justice and Constitutional Affairs</i>
<i>MLHUD</i>	<i>Ministry of Lands Housing and Urban Development</i>
<i>NAS</i>	<i>National Salvation Front</i>
<i>NCAC</i>	<i>National Constitutional Amendment Committee</i>
<i>NCRC</i>	<i>National Constitutional Review Commission</i>
<i>NEC</i>	<i>National Elections Commission</i>
<i>NGOs</i>	<i>Non-Governmental Organisations</i>
<i>NLP</i>	<i>National Land Policy</i>
<i>NTC</i>	<i>National Transitional Committee</i>
<i>NUF</i>	<i>Necessary Unified Forces</i>
<i>PFMAA</i>	<i>Public Financial Management and Accountability Act</i>
<i>PFM-OC</i>	<i>Public Finance Oversight Committee</i>
<i>PPC</i>	<i>Political Parties Council</i>
<i>PoC</i>	<i>Protection of Civilians</i>
<i>PSC</i>	<i>Preparatory Sub Committee</i>
<i>R-ARCSS</i>	<i>Revitalised Agreement on the Resolution of Conflict in the Republic of South Sudan</i>
<i>RJMEC</i>	<i>Reconstituted Joint Monitoring and Evaluation Commission</i>
<i>RTGoNU</i>	<i>Revitalized Transitional Government of National Unity</i>
<i>SDSRB</i>	<i>Strategic Defence and Security Review Board</i>
<i>SGBV</i>	<i>Sexual and Gender Based Violence</i>
<i>SSOA</i>	<i>South Sudan Opposition Alliance</i>
<i>SPLM</i>	<i>Sudan People's Liberation Movement</i>
<i>SPLM-IO</i>	<i>Sudan People's Liberation Movement in Opposition</i>
<i>SSPDF</i>	<i>South Sudan People's Defence Force</i>
<i>SPOC</i>	<i>Sudd Petroleum Operating Company</i>
<i>TCRSS</i>	<i>Transitional Constitution of the Republic of South Sudan</i>
<i>TNL</i>	<i>Transitional National Legislature</i>
<i>TNLA</i>	<i>Transitional National Legislative Assembly</i>
<i>UN</i>	<i>United Nations</i>
<i>UNHCR</i>	<i>United Nations High Commission for Refugees</i>
<i>UNMISS</i>	<i>United Nations Mission in South Sudan</i>
<i>UNOCHA</i>	<i>United Nations Office for the Coordination of Humanitarian Affairs</i>

Executive Summary

This report on the status of implementation of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) has been prepared pursuant to article 7.9 of the R-ARCSS. This report covers the period from 1 July to 30 September 2023 to add to the previous Reports Nos. 001/19 - 019/23. Under Chapter 1 of the R-ARCSS, progress made towards attainment of Agreement benchmarks during this quarter has been slow. The slippage in the implementation timeline of the pending critical tasks of the chapter juxtaposed against the remaining 16 months to the end of the extended transitional period, poses a challenge to the holding of elections at the end of 2024.

The NCAC drafted amendments to the *Non-Governmental Organisation Act, 2016* and the *Relief and Rehabilitation Act, 2016*. The two bills have been submitted to the Minister for Justice and Constitutional Affairs for further processing. In addition, the NCAC has embarked on the review of the *Investment Promotion Act 2009*. The TNLA passed the *National Elections Act 2012 (Amendment) Bill 2023* and it was assented into law by the President. It also passed the *Bank of South Sudan Act 2011, (Amendment) Bill 2023* and the *Banking Act, 2011 (Amendment) Bill 2023*. These bills await the Presidential assent into law and subsequent operationalization. The Ministry of Justice and Constitutional Affairs has submitted Bills on the Commission for Truth Reconciliation and Healing (CTRH) and the Compensation and Reparation Authority (CRA) to the Council of Ministers for further deliberation before submission to the TNLA.

Critical tasks required to enable adequate preparations for the conduct of elections sixty days before the end of the transitional period include, among others, the reconstitution of the Political Parties Council (PPC) and the National Electoral Commission. Among the tasks of the PPC is the registration and regulation of activities of political parties, and improving the overall political and civic space for effective public participation in elections. The NEC is supposed to oversee the overall conduct of the election.

The Permanent Ceasefire continued to hold during the reporting period despite skirmishes between the South Sudan Peoples Defense Forces (SSPDF) and the National Salvation Front (NAS) of Lt. Gen Thomas Cirillo in Central Equatoria. On the Transitional Security Arrangements, the National Transitional Committee (NTC) distributed food to Training Centres and provided SSP 170 million for the deployment of regional assessment teams to the Greater Equatoria, Greater Upper Nile and Greater Bahr El Ghazal Regions. Notwithstanding the latest efforts by the RTGoNU, neither the deployment of Phase 1 is completed nor has the training of Phase II commenced, because the Training Centres are still occupied by the Phase I NUF.

The Humanitarian situation continued to worsen in South Sudan as a result of flooding, diminishing funding, and the scale of humanitarian need, which has been deepened by the influx of refugees and returnees fleeing the Sudan conflict. The safety and security of humanitarian workers and goods remained a challenge despite repeated pleas by the humanitarian community. Incidences of attacks and looting of humanitarian convoys and goods continued to be reported and affected the humanitarian response.

The Minister of Finance and Planning on 20 June 2023, presented a *Draft Appropriation Bill for FY 2023/24*, the *Draft Financial Bill for 2023/24*, and a *Statement of the Overall Indebtedness of the Government of the Republic of South Sudan for the fiscal*

year 2023/2024 before the reconstituted TLNA. The resource envelope of SSP 1,837 billion is being funded primarily from oil, and the budgeted expenditure with a resource gap/deficit of SSP 267.1 billion was duly approved. The amount of SSP 50 billion was appropriated for the R-ARCSS Implementation Fund which will be managed by the Ministry of Peacebuilding.

Consistent with its monitoring, evaluation and oversight mandate the leadership of RJMEC held discussions with the Presidency and the TNLA on the status of implementation of the Agreement. In addition, the leadership had several engagements within the region, and internationally. Briefings were given to President of the Republic of Djibouti, and Chairperson of the Assembly of IGAD Heads of State and Government, the Chairperson to the IGAD Council of Ministers, the Deputy President of South Africa, Members of the European Union Peace and Security Council and the Deputy Foreign Minister of Norway among others.

There is much political goodwill from regional and international stakeholders to support South Sudan in the pursuit of sustainable peace and development. Therefore, expectations are that the Parties will adhere to the Agreement, increase the pace of implementation and demonstrate tangible progress in the completion of the critical pending tasks. In that regard, RJMEC underscores the importance of a people led and a people owned permanent constitution for the conduct of a credible free and fair election at the end of the Transitional Period. Every effort should therefore be made on the part of the RTGoNU to prioritize and expedite its making in accordance with the Agreement.

The recommendations which follow, including to the Parties to the Agreement, RTGoNU, and IGAD are geared towards encouraging a faster pace of implementation of the R-ARCSS if acted upon

To the Parties to the Agreement and Relevant Stakeholders

- the Parties to the Agreement to dialogue among themselves and with other stakeholders to agree on the practical steps to fast-track the implementation of the Roadmap to ensure the timely conduct of elections; and
- appeals to the Parties in RTGoNU and within the TNLA to embrace constructive dialogue and strive to achieve consensus for a smooth implementation of the Agreement

To the Reconstituted Transitional Government of National Unity

- appoint the nominated representatives and reconstitute the relevant constitution-making and electoral bodies, especially the PPC, NCRC, PSC, and NEC as well as their leadership;
- avail adequate and predictable resources to facilitate the establishment and operationalization of these critical constitution-making and electoral mechanisms once reconstituted;
- provide the requisite resources to the JRC in order for it to expedite its consultative process and prepare the final report for consideration by the RTGoNU in order to ensure that the judicial reform process complements the permanent constitution making process and preparations for the conduct of elections;

- ensure that women's representation in the political process attains the minimum 35% threshold, including in the Constitution-making bodies and the other institutions and commissions being reconstituted;
- provide adequate resources to the Security Mechanisms and complete the unification and redeployment of forces; and
- urges the Minister of Justice and Constitutional Affairs to expeditiously table the amendment bills received from the NCAC to Cabinet and subsequently before the TNLA for enactment.

To the Transitional National Legislative Assembly

- expedite the deliberation and enactment of all the outstanding bills, which have been presented by the RTGoNU

To International Partners and Friends of South Sudan

- RJMEC reiterates its appeal to all donor partners to support the permanent constitution-making process, including by directly resourcing some of the critical mechanisms, providing civic education and capacity building.

With just about 15 months left for the holding of elections as set out in the Roadmap, there is much cause for concern for a successful outcome given the number of critical pending tasks. In addition, the requisite commitment of resources up to this point have been inadequate to address the requirements of fully implementing those pending tasks. It is therefore imperative for the RTGoNU to provide to the people of South Sudan clarity on election preparedness. After five years of implementation of the R-ARCSS, the people of South Sudan are rightly demanding to secure the peace dividends leading to better living conditions, an easing of the humanitarian situation including the voluntary return of IDPs and refugees and improved economic prospects. These gains can only truly be consolidated through a democratic transition offered through diligent implementation of the remaining critical pending tasks.

I. Introduction

1. Article 7.9 of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) mandates the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC) to prepare and submit Quarterly Reports. This report covers the period from 1 July to 30 September 2023 to add to the previous Reports Nos. 001/19 - 019/23.¹ It provides a status update on implementation of the R-ARCSS during the reporting period, which coincides with the one-year anniversary of the Roadmap,² and the five-year anniversary of the signing of the R-ARCSS. The activities conducted by the RJMEC in its oversight, monitoring and evaluation mandate within the R-ARCSS are also highlighted.

2. During the period under review there was very little progress made in the implementation of some of the critical pending tasks highlighted during the last quarter, and which were expected to help pave the way for credible elections at the end of 2024.³ Still outstanding are the operationalization of the Political Parties Act 2023, National Constitutional Act 2022, and the National Election Act 2023. In particular, there was an expectation that the Political Parties Council (PPC), National Constitutional Review Commission (NCRC) and the National Elections Commission (NEC), key institutions needed to oversee the constitution and election processes would have already been set up.

3. During the reporting period there has been some progress with the passage of the amended National Elections Act 2012, by the Transitional National Legislative Assembly (TNLA), which has since been assented into law by the President. Also, draft legislation governing the Commission for Truth Reconciliation and Healing (CTRH) and the Compensation and Reparation Authority Bills has been submitted to the Council of Ministers. However, there has been no new progress regarding the redeployment of Phase 1 of the Necessary Unified Forces (NUF), although food and other supplies have been procured and distributed to some Training Centres. These forces, among other things are expected to provide election-related security. At the same time, the humanitarian situation is compounded by the conflict in Sudan. In fulfillment of its mandate the RJMEC leadership undertook a number of meetings to brief the Chairperson of the Intergovernmental Authority on Development (IGAD), the Deputy President of South Africa, as well as high level meetings with the European Union and others.

4. This report has four sections with Section I, the introduction, providing an overview of the entire report. This is followed by Section II, with an analysis of the status of implementation of the R-ARCSS to include governance, security, humanitarian affairs, economic affairs, and constitutional making processes; as well as the activities of the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC) during the reporting period. Section III provides key observations that highlight concerns and focuses on recommendations to the RTGoNU, the Transitional National Legislature (TNL), Parties and Stakeholders to the R-ARCSS, and the International Partners and Friends of South Sudan; Section IV is the conclusion.

¹ Copies of previous reports are available at: <https://jmecsouthsudan.org/index.php/reports/rjmec-quarterly-reports>.

² The Parties to the Agreement agreed to the Roadmap on 2 August 2022. It was then passed at the 2nd Extraordinary Plenary of the RJMEC, held on 1 September 2022, and later ratified by the Transitional National Legislature. The Roadmap sets out revised timelines to accomplish key tasks within the R-ARCSS, towards the holding of elections in December 2024.

³ In particular, tasks lagging behind included the unification of forces, the making of the permanent constitution and enactment of crucial bills to facilitate implementation of other provisions of the R-ARCSS, which are prerequisites for the conduct of democratic elections.

II. Status of Implementation of the Transitional Tasks of the R-ARCSS

Chapter 1: Revitalised Transitional Government of National Unity

5. Under Chapter 1 of the R-ARCSS on the Revitalized Transitional Government of National Unity (RTGoNU), progress made towards attainment of Agreement benchmarks during this quarter has been slow. The slippage in the implementation timeline of the pending critical tasks of the chapter juxtaposed against the remaining 16 months to the end of the extended transitional period, poses a challenge to the holding of elections at the end of 2024.⁴ In that regard, the Parties and the RTGoNU are required to deliver on their commitments and expedite the accomplishment of all the tasks of the R-ARCSS within the remaining time, in order to create the necessary conditions for South Sudan to conduct its first post-independence democratic free, fair and credible elections.

6. During the quarter, H.E. Salva Kiir Mayardit, President of the Republic of South Sudan made some of the following changes to the Executive of the RTGoNU. On 31 August 2023, the President appointed Amb. James Morgan Pitia as the Minister of Foreign Affairs and International Cooperation and Hon. Ramadan Mohammed Abdallah Goc as the Deputy Minister. Ambassador Morgan replaces Hon. Deng Dau Deng who held the portfolio as an Acting Foreign Minister since April 2023. On 4 August 2023, Dr Bak Barnaba Chol was appointed by the President to replace Dr Dier Tong Ngor, as the new Minister for Finance and Planning.

7. Furthermore, on 26 September 2023, the President appointed Hon. Angelina Teny, from the South Sudan Peoples' Liberation Movement in Opposition (SPLM/A-IO), as the Minister for Interior and Hon. Marial Gumke from the ITGoNU as her deputy. The appointment ended a more than five months deadlock following the swapping by the President of the ministries of Defence and Interior between the SPLM and the SPLM-IO respectively. Hon. Teny previously held the ministerial portfolio of Defence and Veteran Affairs until March 2023.

Judicial Reforms

8. During the transitional period, the RTGoNU is expected to review the Judiciary Act, and reconstitute the Judicial Service Commission (JSC), which will be responsible for spearheading judicial reforms including restructuring of the judiciary. The Agreement further requires the RTGoNU to establish an independent, impartial, and credible Constitutional Court, regulated by law. The R-ARCSS mandates the *ad hoc* Judicial Reform Committee (JRC) to study and make recommendations on judicial reforms to the RTGoNU. Since the beginning of July 2023, the JRC has not been able to proceed with the implementation of all its planned public consultations within the country due to lack of funding.

National Constitutional Amendment Committee

9. Under Article 1.8 of the R-ARCSS, the National Constitution Amendment Committee (NCAC) is required to review and complete amendment to provisions of several pieces of legislation. In September 2023, the NCAC resumed its work and since then it has drafted amendments to the *Non-Governmental Organisation Act, 2016* and the *Relief and Rehabilitation Act, 2016*. The two draft amendment bills have been submitted to the Minister for Justice and

⁴ H.E. Salva Kiir Mayardit, President of the Republic of South Sudan, informed the country in his Martyrs' Day statement on 1 August 2023 that the path forward for the country is elections in 2024, which are a central feature of the R-ARCSS. The President added that the only way out of "perpetual transitional government status" is elections.

Constitutional Affairs for further processing. In addition, the NCAC has embarked on the review of the *Investment Promotion Act 2009*, and held a stakeholders validation workshop to review proposed amendments to the Act.

Transitional National Legislative Assembly

10. In this quarter, the RJMEC briefed the reconstituted TNLA on the status of implementation of the Agreement and encouraged members to fast-track the passage of the pending bills before them. The TNLA has continued with its mandate pursuant to the provisions of the R-ARCSS and *Transitional Constitution of the Republic of South Sudan (TCRSS)* 2011, as amended. On 18 September 2023, the TNLA passed the *National Elections Act 2012 (Amendment) Bill 2023* and it was assented into law by the President. This is a very critical piece of legislation, which shall inform the reconstitution of the National Elections Commission (NEC), a key institution for overseeing the conduct of elections.

11. Accordingly, there is urgency for the NEC to be reconstituted by the Parties to the R-ARCSS. Furthermore, the NEC will require adequate resources from the RTGoNU to embark on its constitutional mandate and in line with the provisions of the Revitalised Peace Agreement. On 25 September 2023, the reconstituted TNLA passed the *Bank of South Sudan Act 2011, (Amendment) Bill 2023* and the *Banking Act, 2011 (Amendment) Bill 2023*. These bills await the Presidential assent into law and subsequent operationalization.

Transitional Institutions and Mechanisms

12. The R-ARCSS under Article 1.19 mandates the Executive to supervise and facilitate reforms and reconstitution of the Commissions and Institutions at the national level, tasks which were supposed to have been accomplished by 21 August 2022 in accordance to the Roadmap. The reconstituted Commissions and institutions are expected to play a critical role in improving accountability, transparency, institutional independence, and efficiency in national governance. It is therefore critical that the Parties to the R-ARCSS considers expediting the expected reforms as provided for in the R-ARCSS.

National Elections

13. Pursuant to Article 1.20 of the R-ARCSS, there are critical tasks to enable adequate preparations for the conduct of elections sixty days before the end of the transitional period. The tasks include, among others, the reconstitution of the Political Parties Council (PPC) and the NEC. These tasks were supposed to have been accomplished by 21 August 2022 and 21 October 2022 respectively. Among the tasks of the PPC is the registration and regulation of activities of political parties, and improving the overall political and civic space for effective public participation in elections.

14. The RTGoNU and IGAD/AUMISS/UNMISS established a joint government trilateral taskforce for constitution-making and electoral processes, with the RJMEC as an observer. The joint Taskforce has been engaging at the technical and political levels on the modalities for the making of the permanent constitution and technical preparations for the conduct of elections. So far, it has submitted ten critical tasks to be considered by the RTGoNU on the holding of elections. These engagements are ongoing.

Chapter 2: Permanent Ceasefire and Transitional Security Arrangements

15. The Permanent Ceasefire continued to hold during the reporting period despite skirmishes between the South Sudan Peoples Defense Forces (SSPDF) and the National Salvation Front (NAS) of Lt. Gen Thomas Cirillo in Central Equatoria. On the Transitional Security Arrangements, the National Transitional Committee (NTC) distributed two to three weeks' worth of food to Training Centres in Greater Equatoria and Greater Bahr El Ghazal Regions but could not reach most of the Training Centres in Upper Nile due to transportation challenges. Furthermore, on 13 September 2023, the NTC provided the Joint Transitional Security Committee (JTSC) with SSP 170 million for the deployment of regional assessment teams to the Greater Equatoria, Greater Upper Nile and Greater Bahr El Ghazal Regions.

16. As a result, the JTSC dispatched regional assessment teams to the Training Centres to re-assess the Phase I NUF graduates' readiness for deployment. Unfortunately, assessment teams for Upper Nile were not dispatched because food had not reached the Training Centres. Notwithstanding the latest efforts by the RTGoNU, neither the deployment of Phase 1 is completed nor has the training of Phase II commenced, because the Training Centres are still occupied by the Phase I NUF.

17. In addition, the Disarmament, Demobilization and Re-Integration (DDR) Commission has not managed to process combatants who were disqualified from joining the NUF, hence they are still in the Training Centres. The Strategic Defence and Security Review Board (SDSRB) has completed the drafting of most of the key documents required under the R-ARCSS, namely the: (i) strategic security assessment; (ii) security policy framework; (iii) revised defence policy; and (iv) security sector transformation framework. These documents are awaiting validation by all members of the Board before they can be submitted to the Cabinet.

18. The limited progress notwithstanding, the Security Mechanisms continue to face funding challenges. They lack funding for their sustenance and the execution of their mandated tasks. Cantonment Sites still lack food, medicines, shelter and clean water. Training Centres such as Kaljaak, Alel and Tufogia in Upper Nile State are flooded and are neither accessible nor suitable to accommodate troops, requiring their relocation.

19. During the period of reporting, the CTSAMVM Board and the CTSAMVM Technical Committee (CTC) did not meet to endorse the outstanding seven violation reports because of unresolved CTC grievances. In an effort to resolve this, the IGAD Executive Secretary supported by the IGAD Special Envoy for South Sudan and the RJMEC issued amended CTSAMVM Terms of Reference (ToRs), the CTSAMVM Chairperson's ToRs and draft ToR for the CTC. RJMEC submitted the approved Board ToR and draft CTC ToR for operationalization by the principals of the ITGoNU, SPLM/A-IO, South Sudan Opposition Alliance (SSOA), and Former Detainees (FDs).

Chapter 3: Humanitarian Assistance and Reconstruction

20. The Humanitarian situation continued to worsen in South Sudan as a result of flooding, diminishing funding,⁵ and the scale of humanitarian need, which has been deepened by the influx of refugees and returnees fleeing the Sudan conflict. As of 21 September 2023, according to UNOCHA, 279,628 individuals had crossed the border into South Sudan from Sudan. These numbers are now being compounded by returnee inflows from Ethiopia totalling 32,800, 46% of whom are children, since August this year.

21. Funding for returnee support including onward transportation assistance (OTA) remained a challenge that led to backlogs and overcrowding at transit centres adding pressure on the limited resources at those points particularly in Renk and Malakal in Upper Nile State. Despite ongoing efforts to patch the impassable roads, the flooding in Renk worsened physical access to key areas, including the airport, Zero (an informal settlement), Paloich, Melut and beyond.

22. In response to these challenges, the Emergency Response Plan for the Sudan Crisis targeting 600,000 individuals, was updated by UNHCR and released on the 03 September 2023 with a US\$356 million ask to address critical priorities, including onward transport assistance (OTA) to preferred final destinations, life-saving humanitarian assistance on arrival and during transit for the period of May to December 2023.⁶ Gaps in response included support of integration of returnees in their areas of return, strengthening gender-based violence (GBV) response capacity, including clinical management of rape, psychosocial support, GBV case management and basic needs assistance at the points of final return. Although returnees continued to arrive in areas of origin or relocation in South Sudan, many have already experienced re- displacement, inter-communal conflict, exposure to diseases, high prices of basic goods, food insecurity, loss of livelihoods and face the risk of flooding as the rainy season progresses. The major challenge to the relocation, resettlement and reintegration of the returnees remains the lack of basic services at the points of return.

23. The NCAC completed the review of the *Non-Governmental Organisation Amendment Bill* and presented it to the Ministry of Justice and Constitutional Affairs (MoJCA) on the 14 September 2023. The bill now awaits tabling to the Council of Ministers and Parliament. It is expected that the enactment of this law will improve regulation of NGO activities and create an enabling political, administrative, operational and legal environment for the delivery of humanitarian assistance and protection as envisaged by the agreement.

24. The safety and security of humanitarian workers and goods remained a challenge despite repeated pleas by the humanitarian community. Incidences of attacks and looting of humanitarian convoys and goods continued to be reported and affected the humanitarian response. Furthermore, according to the August 2023 Aid Worker Security Report, South Sudan recorded the highest number of attacks against aid workers this year with 40 reported, which left 22 aid workers dead and 36 injured. The number of those killed rose to 24 when two drivers were killed in Yei, Central Equatoria State, after delivering humanitarian supplies on 23 September 2023.

⁵ Only 52% of the UN Humanitarian Response Plan (HRP) funding requirement of US \$ 1.7 billion has been realised.

⁶ See <https://www.unhcr.org/news/1-billion-now-required-support-millions-fleeing-sudan-conflict-needs-soar>.

Chapter 4: Resource Economic and Financial Management

Institutional Reforms

25. The revised Bank of South Sudan Act and the Banking Act were passed by the reconstituted TNLA. This new Bank of South Sudan Act 2023 should expedite a restructuring of the Central Bank to function efficiently and effectively. This process should address the leadership, composition of the board (that should comprise at least three women), and the powers, functions, and operations of the Bank. This law now confirms the name of the bank as the Bank of South Sudan (BoSS) and the currency that it issues as the South Sudan pound.⁷ It grants the BoSS independence to formulate monetary policy, promote price stability and regulate the financial system. The Banking Act of 2023 subjects' commercial banks in South Sudan to certain requirements, restrictions, and guidelines that are designed to uphold the soundness and integrity of the financial system.

Resource Management

26. The RTGoNU developed a National Land Policy (NLP) pursuant to Article 4.8.2.1.1 of the R-ARCSS, which was subject to considerable public input and research to identify key land issues and challenges, as well as methods for tackling them. Policymakers, traditional and religious authorities, national and international players, and communities from around South Sudan have all actively participated in the process.

27. The finalized NLP is a long-term framework for assigning and protecting collective and individual land rights for all South Sudanese. To accomplish essential national governance and development objectives, the policy articulates principles, institutions, and processes for land access and ownership, control, administration, use, and sustainable management. It establishes land governance principles, identifies priority land issues and challenges, articulates policy options and strategies, establishes the institutional framework, and defines roles, responsibilities, and interactions to promote tenure security for improved land productivity and sustainable development.

28. The NLP has been approved by the Economic Cluster and is due for approval by the Council of Ministers after which it will be tabled at the reconstituted TNLA. Once implemented, it will serve as the foundation for the establishment of sector policies to promote long-term economic development, manage competing imperatives over land and land-based resources, and resolve land-related disputes.

29. The independent land registry that is mandated by Article 4.8.2.1.2 of the R-ARCSS is yet to be created. Despite the unambiguous terms of Section 54 of the *Land Act 2009* that the land register shall be in the Ministry of Lands Housing and Urban Development (MLHUD), the Judiciary continues to conduct land registration tasks. Furthermore, land is registered by state governments and even municipalities. This situation of misunderstanding tends to breed conflict between institutions as well as between organizations and people, particularly in urban and peri-urban areas where all levels of government are engaged.

Public Finance and Economic Management

30. The Minister of Finance and Planning on 20 June 2023, presented a *Draft Appropriation Bill for FY 2023/24*, the *Draft Financial Bill for 2023/24*, and a *Statement of the Overall*

⁷ The currency is currently referred to as the South Sudanese Pound.

Indebtedness of the Government of the Republic of South Sudan for the Fiscal Year 2023/24 before the reconstituted TLNA. The resource envelope of SSP 1,837 billion is being funded primarily from oil, and the budgeted expenditure with a resource gap/deficit of SSP 267.1 billion was duly approved. Even though the budget is said to have been guided by the Revised National Development Strategy, the expenditures were focused on addressing civil servants' salaries (SSP 457 billion) and other government expenditures. The allocation of the overall budget to the following sectors is as follows: Agriculture 3.1%, Health 2% and Education 8.2%. These allocations were minimally reduced by the TNLA and other items like payments to the South Sudan Pension Fund (SSP 15 billion) and South Sudan Agricultural Bank (SSP 3 billion) were introduced. The amount of SSP 50 billion was appropriated for the R-ARCSS Implementation Fund which will be managed by the Ministry of Peacebuilding.

31. Though the Draft Appropriation Bill and the Draft Financial Bill for fiscal year 2023/24 were prepared and submitted to the Economic Cluster and the Council of Ministers earlier than usual, it still was not processed in time in compliance with section 25, Annual Budget Timetable of the Public Financial Management and Accountability Act, 2011.

Revenue Collection

32. The RTGoNU has presented data on oil and non-oil revenue and expenditure for FY 2022/23 to the Public Financial Management Oversight Committee, which was set up pursuant to Article 4.1.4 of the R-ARCSS as a high-level competent and effective oversight mechanism to control revenue collection and allocation, amongst others.

33. Non-oil tax revenues for 2022/23 FY collected in SSP totalled SSP 163.4 billion, an increase of 138 percent from that of the previous fiscal year 2021/22. Collection in US dollars amounted to \$ 113.2 million an increase of 37 percent over the previous fiscal year. These amounts were raised mainly from direct taxation namely payroll, corporate, capital gain and property taxes. Indirect tax, namely customs and excise duty and sales tax were considerably lower as they were faced with challenges such as low valuation exchange rates, tax exemptions, low local manufacturing production and under-declaration by taxpayers. The NRA has committed to addressing these challenges through a review and amendment of relevant sections of the laws and the Customs exchange rate, modernising tax and customs administration, and improving local production and consumption taxes.

Oil Production

34. South Sudan's oil sector currently has three oil-producing projects run by three separate "joint operating companies" (JOC) who agree to share profit, loss, and control of an oil project. The three JOCs operating in South Sudan are Dar Petroleum (DPOC), Greater Nile Petroleum (GPOC) and Sudd Petroleum (SPOC), which operate within the framework of the individual Exploration and Production Sharing Agreement (EPSA), which is the main agreement between the government and the operating company that sets the conditions for the petroleum activity in the license. Each of the three companies are allowed to recover their costs by deducting the equivalent of 45 percent of the value of barrels of oil exported. The remaining 55 percent is shared with the government as follows: DPOC 40% to the government 60%; GPOC 38.5% to government 61.5% and SPOC 28.5% to government 71.5%.

35. In terms of achieving the accountability and transparency of the R-ARCSS, "the Minister shall make interim quarterly reports to the Assembly within 30 days of the stated period, on the amounts spent by individual Spending Agencies and the aggregate expenditure as compared to

the budgeted amount” according to Section 32 of the (already enacted) Public Financial Management and Accountability Act, 2011 (PFMAA).

The RJMEC Working Committee

36. The Committee held three meetings during the ensuing period under the Chairmanship of H.E. Marjan Schippers, Ambassador of the Kingdom of the Netherlands. The First two meetings deliberated on the status of implementation of Article 4.2.8 land resources, following a presentation made on the status of implementation by the Ministry of Lands, Housing and Urban Development, the Land Commission, and the UN Food and Agriculture Organization. The Draft Land policy that had been approved by the Economic Cluster was presented, pointing out the current challenges the policy sets to address.

37. The status of implementation of Article 4.8.3 was also presented. The Nile and Other Water Resources was presented by the Hon Minister of Water Resources and Irrigation at the third meeting. The main policy for water management, the reviewed Southern Sudan Water Policy 2007, is being implemented for instance through the South Sudan WASH Sector Strategic Framework 2012. This policy specifically addresses delivering clean and safe drinking water, and improvement of rural and urban hygiene and sanitation.

38. Another legislation that regulates the use of South Sudan's water resources is the Establishment Bill 2022, which establishes the legal institutions required for the ministry to carry out its task. The Ministry of Justice and Constitutional Affairs has received this bill. South Sudan Water Bill 2015 is yet to be reviewed as required by the RARCSS and the Transboundary Water Resources Management Policy and the Gender Water Policy are yet to be developed. However, the Ministry of Water Resources and Irrigation is working on a Water Resource Master Plan that would map the water resources in South Sudan. The Ministry is challenged with a capacity dearth and lack of financial resources. Nonetheless, the ministry continues to focus on getting the relevant policies and legislation finalized and operational, improving its human capacity and mobilizing resources.

39. Though the provisions in the R-ARCSS in both the Land and water resources have not been implemented, both the government and its development partners have developed programs, projects and policies that support achieving the full implementation.

Chapter 5: Transitional Justice Accountability Reconciliation and Healing

40. During this reporting period, the Ministry of Justice and Constitutional Affairs completed the drafting of the Bills on the CTRH and the CRA. The Bills were then submitted to the Governance Cluster where they underwent further improvement before eventual submission to the Council of Ministers for approval. The Bills are expected to be deliberated at the Council of Ministers and thereafter submitted to the reconstituted TNLA for enactment. Simultaneously, the Technical Committee on the establishment of the CTRH (TC-CTRH) undertook consultations with South Sudanese refugees in Ethiopia but have been unable to undertake the same in Kenya and Uganda. Efforts are underway to ensure consultations in those countries are completed in good time. There has been no further update on the setting up of the Hybrid court.

Chapter 6: Parameters of Permanent Constitution

41. The constitution-making law requires, *inter-alia*, the reconstitution of the NCRC within 45 days and followed by the establishment of the Constitution Drafting Committee (CDC) and the Preparatory Sub-Committee (PSC) for the National Constitutional Conference (NCC). As of the time of this reporting, none of these mechanisms were yet in place, and their establishment and operationalization are way behind schedule, per the RTGoNU timelines outlined in the Roadmap.

42. Some progress has been made by the Parties and the Stakeholders to the Revitalized Peace Agreement towards the operationalisation of the Constitution-Making Process Act 2022 in particular with regard to the submission of the list of their nominated representatives to the MoJCA for vetting and for subsequent appointment by the President.

43. This is a welcome development as it is expected to pave the way for the reconstitution of the NCRC and the NCC, two critical mechanisms tasked with the making of the permanent constitution. After its reconstitution, the NCRC is required to recruit the CDC. However, it is important to note that all these mechanisms are already way behind schedule as per the Roadmap and the Constitution Making Process Act 2022, where they were supposed to have been established within 45 days of the enactment of the Act.

44. In accordance with the RTGoNU Roadmap the following tasks should have already been completed namely:

- the reconstitution of the NCRC by 30 August 2022;
- the establishment of the CDC by 30 October 2022;
- the conduct by NCRC of its first phase of civic education and collection of data on public views on the constitution-making process by 30 January 2023;
- the preparation of the first report by NCRC of the civic education and public consultation data for validation by the public by March 2023;
- the recruitment of members to form the NCC by 30 December 2022; and
- the establishment of the PSC by 30 January 2023.

Chapter 7: Reconstituted Joint Monitoring and Evaluation Commission

45. Consistent with its monitoring, evaluation and oversight mandate the leadership of RJMEC held discussions with Vice Presidents H.E Wani Igga, H.E Hussein Abdelbagi and H.E. Rebecca Garang. Discussions were also held with the TNLA on the status of implementation of the Agreement and members were encouraged to fast-track the pending bills before the House.

46. In addition, the leadership had several engagements within the region, and internationally. Briefings were given to H.E. Omar Ismail Guelleh, President of the Republic of Djibouti, and Chairperson of the Assembly of IGAD Heads of State and Government, on the status of implementation of the R-ARCSS, where the need for IGAD to remain engaged on the South Sudan peace process was stressed, especially as the Parties prepare for elections. A similar update was given to Hon. Mahamoud Ali Youssouf, Foreign Minister of Djibouti and Chairperson of the IGAD Council of Ministers.

47. The Leadership briefed the visiting Deputy President of South Africa, H.E. Paul Mashatile, and in the process the RJMEC Interim Chairperson appealed to the Republic of South

Africa, as the Chair of the AU C5⁸, to rally its members to enhance their support to the peace process.

48. At the international level, the RJMEC briefed the Political and Security Council of the European Union. In addition, meetings were held with the Deputy Foreign Minister of the Kingdom of Norway, the Norwegian Special Envoy for Sudan and South Sudan, and the IGAD Ambassadors accredited to the EU. The officials were briefed on the status of implementation of the Revitalised Agreement and RJMEC appealed for their continued engagement in the South Sudan peace process.

49. RJMEC held its 30th and 31st regular ordinary monthly meetings on 06 July 2023 and 10 August 2023 respectively,⁹ and the RJMEC leadership also met regularly with the Parties to the Agreement, various institutions and mechanisms of the R-ARCSS, the diplomatic community and the stakeholders and adherents to the Agreement. Discussions were mainly focused on driving the pace of implementation to better prepare the way for the holding of elections. Also, discussions looked at ways to possibly tackle the challenges facing the peace agreement.

III. Key Observations and Recommendations

Observations

50. There is much political goodwill from regional and international stakeholders to support South Sudan in the pursuit of sustainable peace and development. Therefore, expectations are that the Parties will adhere to the Agreement, increase the pace of implementation and demonstrate tangible progress in the completion of the critical pending tasks. In that regard, RJMEC underscores the importance of a people led and a people owned permanent constitution for the conduct of a credible free and fair election at the end of the Transitional Period. Every effort should therefore be made on the part of the RTGoNU to prioritize and expedite its making in accordance with the Agreement.

51. The failure to make progress on the permanent constitution is just one of the many critical tasks that continue to remain outstanding. Another is the completion of Phase 1 of the unification of the NUF and the start of Phase 2. Time is clearly of the essence in attempting to complete the unification since this is considered to be a critical component of the security apparatus required for the holding of elections and guaranteeing the overall security of the country. Settling of the issue around the command structure of the middle echelon of the forces and making available the required resources would positively impact the country's ability to hold elections as scheduled.

52. Beyond concerns around the permanent constitution making and the security situation, still outstanding is the reconstitution of the key institutions required to oversee preparation for elections as per the Roadmap. Specifically, the Political Parties Council responsible for the registration and overseeing the conduct of the political parties, and the NEC charged with managing the elections process still await reconstitution.

⁸ The AU C5 is comprised of the countries of South Africa, Algeria, Nigeria, Chad and Rwanda.

⁹ See the minutes of the 30th and 31st RJMEC Meetings at <https://jmecsouthsudan.org/index.php/plenary/plenary-minutes>

53. Millions of South Sudanese in need risk remaining without food or livelihood support as food assistance continues to be hampered by severe funding gaps.¹⁰ This situation is compounded by insecurity and the effects of climate change as well as the sudden influx of those fleeing the Sudan conflict, all of which continue to hinder efforts to improve the food security situation in the country. As the pressure on the government to offer basic services to its citizens and especially the returnees are mounting, RJMEC continues to urge the RTGoNU to seize this opportunity and establish the Special Reconstruction Fund (SRF) to raise funds to support IDPs and returnees humanitarian, relocation and reintegration needs.

54. A number of efforts to mobilize and advocate for the participation of women in political processes and consolidate women's voices for incorporation into the Constitution were noted. These included the launch of the report on gender analysis on South Sudan laws and the validation of the South Sudanese women's charter, an advocacy tool which consolidates women's and girls' voices, views, priorities and aspirations in the permanent constitution.

55. The recently concluded Economic conference organized under the theme '*Towards a Diversified Inclusive and Sustainable Economic Growth*' recognized the increasing needs, the dire humanitarian situation and the reduction in funding that is projected to continue into next year. In that regard, some of the key recommendations made included the need for government to improve service delivery to the citizenry, enact and operationalize relevant policies and bills and allocate more funding to the services like health, education and livelihood improvement, infrastructure and production sector.

Recommendations

56. The recommendations which follow, including to the Parties to the Agreement, RTGoNU, and IGAD are geared towards encouraging a faster pace of implementation of the R-ARCSS if acted upon.

a. To the Parties to the Agreement and Relevant Stakeholders

56.1. the Parties to the Agreement to dialogue among themselves and with other stakeholders to agree on the practical steps to fast-track the implementation of the Roadmap to ensure the timely conduct of elections; and

56.2. appeals to the Parties in RTGoNU and within the TNLA to embrace constructive dialogue and strive to achieve consensus for a smooth implementation of the Agreement.

b. To the RTGoNU

56.3. RJMEC appeals to the President to appoint the nominated representatives and reconstitute the relevant constitution-making and electoral bodies, especially the PPC, NCRC, PSC, and NEC as well as their leadership;

56.4. appeal to the RTGoNU to avail adequate and predictable resources to facilitate the establishment and operationalization of these critical constitution-making and electoral mechanisms once reconstituted;

¹⁰ According to UNOCHA as a result of reduced funding, only 10% of the current 3.5 beneficiaries receive enough food for 3 weeks per month while 90% receive enough food for only 2 weeks per month.

56.5. provide the requisite resources to the JRC in order for it to expedite its consultative process and prepare the final report for consideration by the RTGoNU in order to ensure that the judicial reform process complements the permanent constitution making process and preparations for the conduct of elections;

56.6. ensure that women's representation in the political process attains the minimum 35% threshold, including in the Constitution-making bodies and the other institutions and commissions being reconstituted;

56.7. provide adequate resources to the Security Mechanisms and complete the unification and redeployment of forces; and

56.8. urges the Minister of Justice and Constitutional Affairs to expeditiously table the amendment bills received from the NCAC to Cabinet and subsequently before the TNLA for enactment.

c. *To the TNLA*

56.9. expedite the deliberation and enactment of all the outstanding bills, which have been presented by the RTGoNU.

d. *To International Partners and Friends of South Sudan*

56.10. RJMEC reiterates its appeal to all donor partners to support the permanent constitution-making process, including by directly resourcing some of the critical mechanisms, providing civic education and capacity building.

IV. Conclusion

57. With just about 15 months left for the holding of elections as set out in the Roadmap, there is much cause for concern for a successful outcome given the number of critical pending tasks. In addition, the requisite commitment of resources up to this point have been inadequate to address the requirements of fully implementing those tasks. It is therefore imperative for the RTGoNU to provide to the people of South Sudan clarity on election preparedness. After five years of implementation of the R-ARCSS, the people of South Sudan are rightly demanding to secure the peace dividends leading to better living conditions, an easing of the humanitarian situation including the voluntary return of IDPs and refugees and improved economic prospects. These gains can only truly be consolidated through a democratic transition offered through diligent implementation of the remaining critical pending tasks.

58. On its part and pursuant to its mandate as provided for in Chapter 7 of the R-ARCSS, the RJMEC will continue to monitor, evaluate, report on the status of implementation of the R-ARCSS, and as circumstances may demand, intervene to break any deadlock that may emerge in the course of implementation. RJMEC will regularly provide reports and briefings to the RTGoNU, the reconstituted TNLA, the Chairperson of the IGAD Assembly of Heads of State and Government, the Chairperson of the IGAD Council of Ministers, the Chairperson of the African Union Commission, the Peace and Security Council of the African Union and to the Secretary General of the United Nations and the Security Council of the United Nations.

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