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PEACE AND SECURITY COUNCIL
991ST MEETING (VIRTUAL MEETING)

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PSC/RPT/(CMXC)

**DRAFT REPORT OF THE FIELD MISSION OF THE PEACE AND SECURITY COUNCIL TO THE REPUBLIC
OF SOUTH SUDAN, CONDUCTED FROM 24 TO 26 MARCH 2021**

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I. INTRODUCTION

1. From 24 to 26 March 2021, the Peace and Security Council (PSC) of the African Union (AU), led by the Permanent Representative of the Republic of Kenya to the AU, H.E. Ambassador Jean Njeri Kamau, in her capacity as the PSC Chairperson for March 2021, undertook a field mission to South Sudan, within the overall context and framework of the Council's mandate of promoting peace, security and stability in Africa. The field mission was also undertaken pursuant to the Council's decisions and those of the AU Assembly in relation to the situation in South Sudan, particularly the current transition process.

II. COMPOSITION OF THE PSC DELEGATION

2. The Delegation of the PSC comprised the following eleven PSC Members, namely: Algeria, Burundi, Chad, Djibouti, Egypt, Ethiopia, Ghana, Kenya, Malawi, Nigeria, and Senegal. It also included the AU Special Representative of the Chairperson of the Commission for South Sudan, Professor Ambassador Joram Biswaro and two support staff from the Political Affairs, Peace and Security Department of the AU Commission.

III. OBJECTIVES

3. Essentially, the main objectives of the field mission, were to gather first-hand information from the ground, regarding the prevailing political, security, economic and humanitarian situation in the country, as well as follow-up on the implementation of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), signed in Addis Ababa on 12 September 2018; the formation of the Reconstituted Transitional Government of National Unity (R-TGoNU), on 22 February 2020; as well as challenges being faced, with a view to enabling the Council to take informed decisions regarding the next AU steps as a guarantor of the R-ARCSS. The field mission was also an expression of the AU solidarity with the Government and people of South Sudan, as well as a reaffirmation of the unwavering commitment of the AU to continue supporting the current transition in the country.

IV. METHODOLOGY

4. To achieve the objectives of the field mission, the PSC Delegation held extensive consultations with various key stakeholders that include the high level representatives of the R-TGoNU, the African Diplomatic Community, the representatives of the Inter-Governmental Authority on Development (IGAD), the Reconstituted Joint Monitoring and Evaluation Commission (R-JMEC), the Transitional Security Arrangements Monitoring and Evaluation Mechanism (CTSAMVM); the United Nations Mission in South Sudan (UNMISS), the European Union (EU) and the Troika, namely Norway, United Kingdom and United States of America, as

well as civil society organizations. The Delegation also paid a visit to the Rajaf Training Center for the Necessary Unified Forces (NUF).

V. KEY FINDINGS

A. Political Situation

5. Overall, PSC Delegation noted some progress in the implementation of the R-ARCSS, albeit slow. Among the achievements registered to date include the full **establishment of the Executive arm of the Government**, following the formation and inauguration of the R-TGoNU, in Juba, on 22 February 2020, comprising five Vice-Presidents as follows: Dr. Riek Machar (1st Vice-President), Dr. Wani Igga (Vice President), Lt. Gen. Taban Deng Gai (Vice President), Hon. Hussein Abdelbagi (Vice President), and Hon. Rebbecca N. de Mabior (Vice-President). In addition, ten (10) **governors, including for Upper Nile**, and their deputies have also been appointed **including one female**. State and local government appointments have also been completed. Furthermore, on 18 January 2021, the parties to the R-ARCSS initialed an **Agreement on responsibility sharing positions in the three Administrative Areas of Abyei, Greater Pibor and Ruweng**. The positions were shared among the Transitional Government of National Unity (TGoNU), the Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO), and the South Sudan Opposition Movement Alliance (SSOMA).

6. With the Executive branch in place, focus is now on the establishment of the **Legislative branch of the Government**, beginning with the Reconstituted Transitional National Legislative Assembly (R-TNLA), together with the Council of States, which is the upper chamber of the Legislature, down to the county councils. The First Vice President, informed the PSC Delegation that despite the recommendations by the 36th Extraordinary Meeting of IGAD, held in July 2020, to have the current TNLA dissolved, and to reconstitute a new one within seven days, this is yet to be adhered to. He also informed the Delegation that there were flaws in the transitional constitution because the R-ARCSS is not yet incorporated into the Constitution, and hence, the Government is still being run by decrees, adding that the country had been run for over fourteen months without a budget being passed by the Legislature. In the circumstances, the President had issued decrees in order to allow the country to continue functioning under the 2019-2020 budget. Also in the absence of a functioning constitution, the appointment of state governors, deputy governors, commissioners, county councils was also done by presidential decrees. He underscored the urgency for a new constitution to facilitate the enactment of laws, including for the country's six groups of forces which comprise, the defence forces, intelligence services, the police, prison/correctional services, wildlife and civil defence. However, only the Former Detainees (FDs) had submitted their nominations to the National Constitution Amendment Committee (NCAC), in line with the Revitalized Agreement.

7. The Rome Peace Talks under the facilitation of the Community of Sant' Egidio ended in December 2020 with the signing of the Declaration of Principles, as well as a resolution to engage the SSOMA splinter group led by General Paul Malong/ Pagan Amum in Nairobi, Kenya, in January

2021. Unfortunately, due to the outbreak of COVID-19 pandemic, the talks had only resumed in March 2021, in Naivasha, Kenya.

8. In December 2020, the 38th IGAD Extraordinary Summit, held in Djibouti, lifted the travel restrictions to Dr. Riek Machar, which significantly contributed towards the building of mutual trust and confidence among the major political actors in South Sudan, namely, SPLM/IO and the TGoNU. Other notable positive developments include, the holding of the Conference on the National Dialogue, from 3 to 17 November 2020 in Juba, as well as, the holding, for the first time ever, in Juba, of the 6th Annual Congress of the SPLM-IO from 2 to 5 December 2020.

9. With regard to the preparations for the organization of elections at the end of the current transition, most of the views of the PSC interlocutors, including representatives of civil society organizations, coalesced around the urgent need to prioritize restoration of durable peace, security and stability throughout the country, as the necessary precondition for the South Sudanese people to enjoy their fundamental freedoms of movement, assembly and expression. The interlocutors also underlined the urgent need for reviewing the Electoral Act, the establishment of an independent and fully capacitated national election management body to oversee the successful organization of credible, transparent and democratic elections that would undisputedly reflect the freely expressed will of the South Sudanese people, in compliance with AU instruments governing democratic elections.

10. The PSC Delegation was also informed about deficits in mutual trust between and among the parties to the R-ARCSS, as well as proliferation of splinter groups which are yet to embrace the R-ARCSS.

11. Furthermore, some representatives of the civil society organizations claimed that some of the delays in the implementation of the R-ARCSS were a result of new and sometimes conflicting interpretations of the R-ARCSS itself. There was also concern over non-fulfilment of the 35% quota for women, in line with the R-ARCSS, and thus clear lack of effective representation, as well as more meaningful participation of women and the youth in the current transition process. Most of the interlocutors also argued that the general lack of progress in the implementation of the transitional tasks was partly due to the lack of required financial resources and punitive measures imposed on the Government of South Sudan by international financial institutions and some of its bilateral development partners.

B. Security Situation

12. The PSC Delegation was informed that following the signing of the R-ARCSS on 12 September 2018, and in particular, the formation of the R-TGoNU on 22 February 2020, the general security situation in South Sudan has been relatively calm, with no any reported incidences of direct military confrontations between the major parties, namely, TGoNU and SPLM/A-IO. Nevertheless, the security situation remains fragile with occasional reports of sporadic incidences of armed clashes in parts of the country, particularly in the Equatoria states,

involving Government forces and the forces of the National Salvation Front/Army of General Thomas Cirillo Swaka and possibly others. In addition, there have also been reports of inter-communal violence, cattle rustling, as well as sexual violations and abductions of women and children. The insecurity has resulted in the losses of lives and internal displacement of people, thereby causing a serious humanitarian situation. In addition, the country is awash with weapons in illegal hands of non-state actors. There are also reports of continued defections of forces and formation of new armed groups.

13. Although transitional security arrangements constitute one of the cornerstones of the R-ARCSS, and the transition as a whole, there has been no significant progress recorded, thus far. While the training of NUF under Phase 1 has been completed some ten months ago, their graduation and deployment is still pending, reportedly, due to lack of necessary resources, including financial. There is also no unified command and control structure for the NUF, as well as universally acceptable formula for the ranking of officers and the modalities for the management of excess senior military officers.

14. Furthermore, the cantonment sites and training centres, are facing serious challenges that include: lack of food, medicines, accommodation, transport, water, and separate facilities for female trainees. As a result of these chronic challenges some of the trainees have left the training centres. There are fears that those trainees leaving/ abandoning the training centres could potentially pose a security risk to the ongoing transition. However, the First Vice President, dispelled this fear arguing that most of the trainees leaving the camps were simply doing so because of lack of food and other necessary facilities and that they were simply returning to their homes which are mostly located within the vicinity of the camps. He was confident that, as soon as the necessary resources were availed, most of the deserters would quickly return to the camps. As such, the First Vice President appealed for sustained financial and non-lethal material support to facilitate the graduation and deployment process for the NUFs. Some representatives of civil society organizations claimed that some political groups were building up ethnically-affiliated militias. To substantiate their claims, they gave the example of mobilization of approximately 500 youths in Warrap State in violation of the R-ARCSS. If confirmed, this poses a serious security threat to the future of the country.

15. Furthermore, the country has a lot of aged officers who should now be retired. However the chronic lack of required financial resources has also contributed to the delays in the implementation of the Disarmament, Demobilization and Reintegration (DDR) program. However, the PSC Delegation was informed that, as part of the process of expediting the Transitional Security Arrangements, the R-JMEC had convened a joint seminar which brought together the National Transitional Committee (NTC), all the Security Mechanisms, as well as the DDR Commission. The seminar examined current and future risks and challenges, it set priorities, and agreed on a set of recommendations, which are yet to be implemented. The Minister of Interior also called for the AU Commission to assist in the re-training and professionalization of South Sudan law enforcement agencies.

C. Humanitarian Situation

16. As a result of the persistent conflict, coupled with floods, South Sudan continues to face a dire humanitarian situation. Many South Sudanese people are internally displaced, while others are refugees in neighboring countries. Women, children and the elderly have been disproportionately affected by persistent conflict in some parts of the country, particularly in the Equatorias. According to the United Nations Office for the Coordination of Humanitarian Assistance (UNOCHA), an estimated 8.3 million people in South Sudan are in desperate need of humanitarian assistance. In some parts of the country, humanitarian workers continue to face unnecessary bureaucratic access impediments and security threats as illustrated by the recent killing of three humanitarian workers. Nevertheless, the prevailing relative peace in the country has encouraged some refugees and internally displaced persons to begin to voluntarily return to their original communities albeit, in a gradual manner. UNMISS has also handed over a number of civilian protection sites (POCs) to the Government.

D. Economic Situation

17. With punitive economic measures imposed against South Sudan still in place, as well as lack of sustained economic support by the international financial institutions and bilateral partners, the process of economic recovery and stabilization remains slow and challenging. In fact, the economic situation continues to worsen, with the continued depreciation of the South Sudanese Pound (SSP), coupled with the global fall in oil prices. The cost of living is rising sharply. The PSC Delegation was informed that the structure necessary for economic reform are not yet in place and that there is no agreement at the moment regarding the allocation of independent commissions among the four major parties to the R-ARCSS. However, the Ministry of Finance had been urged to urgently intervene and strengthen non-oil revenue collection. On the other hand, the development partners of South Sudan continue to stress the importance of more transparency and accountability in the management of the country's resources, fighting corruption, and institutional, structural and financial reforms. Notably, the Public Financial Management Oversight Committee is building the capacity of the Government to implement the reforms stipulated in R-ARCSS. The Delegation was informed that, recently, President Salva Kiir had appointed a Petroleum Audit Committee led by the Minister of Presidential Affairs, which is expected to work in collaboration with UN Security Council experts on the matter.

E. Transitional Justice (Chapter V)

18. Progress in the implementation of Chapter 5 of the R-ARCSS is also slow. However the PSC Delegation was informed that the proposals made by the Minister of Justice and Constitutional Affairs had been endorsed and that the Council of Ministers had already authorized the establishment of the Commission for Truth, Reconciliation and Healing, the Compensation and Reparations Authority and the Hybrid Court for South Sudan, in accordance with R-ARSS. On 19 February 2021, the Minister of Justice and Constitutional Affairs Hon. Justice Ruben Madol Arol convened a meeting that was attended by AUMISS, R-JMEC, and IGAD whereby he launched the establishment of a technical taskforce to spearhead and coordinate the ministry's work in the implementation of Chapter V. However, the PSC deduced mixed views with

regard to the establishment of the Hybrid Court. Some interlocutors underscored the importance of an African narrative and suggested the need for drawing lessons from the rich experiences of Rwanda and South Africa, while others stressed the importance of truth telling and restorative justice. Still others, underlined the need to prioritize national reconciliation and unity of the people of South Sudan. However, there were still others, including the First Vice President, who argue that peace and justice should be pursued simultaneously as they are mutually reinforcing. They stress the importance of some form of deterrence for future perpetrators of human rights violations, fighting impunity and promoting justice for the victims of atrocities committed during the violent conflicts in the country and, to this end, they emphasize the need to expedite the process of implementing the provisions of Chapter V of the R-ARCSS. The interlocutors lamented the fact that the Obasanjo Report does not include some groups, particularly the new splinter groups that have not yet embraced the peace process. As such, they appealed to the AU Office of the Legal Counsel to provide the necessary technical support for the expedited implementation of Chapter V of the Revitalized Peace Agreement, particularly the Hybrid Court.

F. Constitution Making Process (Chapter VI)

19. The PSC Delegation was informed that some progress has been made in preparation towards the workshop for the parties to agree on the details of conducting the Permanent Constitution making process. This includes two rounds of sensitization meetings with some of the representatives of the parties. Max Plank Foundation was engaged by R-JMEC to facilitate the workshop. Unfortunately, the delay by R-TGoNU to submit its nominees has negatively impacted the holding of the workshop before the current lockdown. Emphasis is being laid on the need for a permanent constitution before the organization of any elections. In this regard, an appeal was made for the AU Commission's Office of the Legal Counsel, as well as the Political Affairs, Peace and Security Department to provide the required technical assistance.

VI. CONCLUSIONS

20. Following the signing of the R-ARCSS in 2018 and the subsequent delayed formation of the R-TGoNU in February 2020, there has been steady but slow progress in the transition process in South Sudan. The economic recovery and stabilization process is still a daunting challenge. The humanitarian situation is slow to improve. However, there is relative peace and stability in the greater part of the country. There is also some degree of euphoria and optimism that the country is poised for durable peace and stability. But while the limited progress achieved is welcome and commendable, a lot still needs to be done in order to ensure a successful transition within the stipulated timeline of 36 months. To facilitate this, there is need for the determination and continued commitment of the parties to the R-TGoNU and, most importantly, the commitment of the South Sudanese people themselves, with the sustained support of the neighboring countries, the region, the AU, UN, the Troika, the EU and other bilateral partners, as well as a supportive international community. There is need for predictable and sustainable provision of necessary resources to the R-TGoNU, coupled with their judicious, accountable, transparent and responsible management. It will also require constructively engaging all held out movements, in order to ensure that, unconditionally, they also embrace the peace process and positively

contribute towards the success of the transition. Last but not least, it will require a resolute and firm approach towards any peace spoilers.

VII. RECOMMENDATIONS

21. In view of the detailed first-hand information gathered during the field mission, Council may wish to consider the following:

- i. Welcome the steady progress in the implementation of the R-ARCSS, in particularly difficult circumstances and, in this regard, commend all parties to the R-ARCSS for their patriotism and commitment to give peace a chance and encourage them to continue on this path;
- ii. Congratulate the South Sudan authorities, particularly, H.E. President Salva Kiir Mayardit, First Vice-President Dr. Riek Machar and the rest of the Parties to the R-ARCSS for placing the supreme interests of the country and its people above all else, by demonstrating the required leadership and for forming the R-TGoNU, as well as for peacefully resolving their differences, including in relation to the governorship of the Upper Nile State;
- iii. Urge the parties in the R-TGoNU to put their differences aside and to expeditiously and consensually reconstitute the Transitional National Legislative Assembly (TNLA);
- iv. Emphasize the important role of women and youth in the South Sudan peace processes, including in reconciliation, economic development and transitional justice, and in this respect, encourage the relevant authorities to abide by the 35% quota stipulated in the R-ARCSS, with a view to guaranteeing and promoting more meaningful participation by women in the transition process;
- v. Urge the R-TGoNU to mobilize the necessary financial resources to expedite the implementation Chapter 2 of the R-ARCSS, particularly the transitional security arrangements including, the long overdue graduation and deployment of the Necessary Unified Forces, as well as the DDR programme, and request the Chairperson of the AU Commission to engage with the Government of South Sudan to provide technical support on the DDR programme;
- vi. Emphasize on the implementation of Chapter V of the R-ARCSS which includes the establishment Hybrid Court of South Sudan (HCSS), with the support of the AU Commission, the Commission for Truth, Reconciliation, and Healing (CTRH) and the Compensation and Reparation Authority (CRA), with a view to fighting the culture of impunity, as well as promoting lasting peace, justice and reconciliation in South Sudan;
- vii. Request the Chairperson of the AU Commission to urgently constitute a team of experts to work closely with the R-TGoNU in creating the necessary conducive conditions for the successful organization of credible, transparent and democratic elections at the end of the current transition, as well as on matters relating to transitional justice and constitution-making;

- viii. Call on the R-TGoNU to appoint a High-Level peace committee, to find solutions to sporadic cases of intercommunal violence, and, in this context, urge the responsible authorities in Warrap, Lakes, and Jonglei to work earnestly with the committee towards an inclusive process of holistically addressing the challenges, with a view to promoting durable peace in these areas;
- ix. Appeal to the signatories of the Rome Declaration to recommit to the Sant' Egidio process, including adherence to the Cessation of Hostilities Agreement of December 2017 and the Rome Declaration, as well as to the January 2020 Resolution;
- x. Commend IGAD for its continued efforts in South Sudan, particularly its oversight role in the implementation of the R-ARCSS and encourage it to continue to work in collaboration with the AU and other international partners, including through its Special Envoy, in supporting the peace process in South Sudan;
- xi. Note with satisfaction the efforts of the AU High Level Ad Hoc Committee on South Sudan supporting the promotion of peace and stability in South Sudan and its coordination work with the PSC;
- xii. Appreciate the tireless efforts of the RJMEC and commitment to continue assisting the South Sudanese parties to fulfill their obligations within the context of the R-ARCSS;
- xiii. Note with appreciation the sustained efforts, commitment and sacrifices of the UNMISS and humanitarian agencies working in South Sudan to end the suffering of the people of South Sudan;
- xiv. Express condolences of the families of the deceased humanitarian aid workers and appeal to the Government of South Sudan to continue to take necessary measures to ensure safety and security of humanitarian agencies;
- xv. Welcome the ongoing talks with the held out movements, underscore the primacy of dialogue as to only viable approach to peace, urge them immediately embrace the current peace process without further delays and warn them that any peace spoilers will face justice;
- xvi. Applaud all Member States that have extended financial and material support to the Government of South Sudan, including Egypt, Kenya, Nigeria and South Africa and, in this context, appeal to the other Member States to also make contributions in favor of South Sudan, in the spirit of promoting pan-African solidarity;
- xvii. Call on AUC to articulate a clear plan of action to support South Sudan to open political and civic space and guarantee safety of everyone who would participate in the electoral process and address electoral malpractices through competent judicial mechanism;
- xviii. Urge the South Sudanese authorities to expedite the decision to establish the Hybrid Court;

Remain actively seized on matters of peace and security without leaving the critical role of sanctioning spoilers of peace;

- xix. Express gratitude to the South Sudanese authorities for finding time to interact with the PSC Delegation during the field mission, as well as to all interlocutors, namely, the African Diplomatic Community, IGAD, R-JMEC, CITSAMVM, UNMISS, the Troika, as well as the representatives of Civil Society Organizations; and also express gratitude to UNMISS for providing transport facilities for the Council's Delegation; and
- xx. Express particular gratitude to the AU Liaison Office in Juba for facilitating the successful conduct of the field mission and commend the efforts of the Liaison Office in effectively promoting the visibility of the AU on the ground; note with concern, the institutional capacity constraints facing the Office and, in this regard, request the Chairperson of the Commission to urgently take necessary measures to ensure that the Office is availed with all necessary human, material and financial resources, in order to enable it to more effectively discharge its mandate.