

**CIVIL SOCIETY COMMENTS ON CHAPTER II OF THE JULY PROPOSED
COMPROMISE AGREEMENT ON THE RESOLUTION OF THE CONFLICT IN
THE REPUBLIC OF SOUTH SUDAN**

MM2015

**Permanent Ceasefire and
Transitional Security Arrangements**

August 2015

Introduction

This paper presents comments on the security provisions of the Proposed Compromise Agreement for the resolution of the Conflict in the Republic of South Sudan. It is largely based on a roundtable of representatives of civil society organizations that met in Juba on the 3rd August 2015 to review Chapter II and make recommendations for improvement. This chapter broadly covers issues pertaining Permanent Ceasefire and Transitional Security Arrangements. The meeting was facilitated by the South Sudan Action Network on Small Arms (SSANSA).

After a thorough review, the civil society group resolved that the proposed text for chapter II provides a good basis for agreement but not without further improvements to make the chapter robust. The meeting came up with the following recommendations to strengthen the chapter. We urge the parties and the mediation (IGAD – PLUS) to consider them in further review of the proposed text. The submission is structured such that the recommendations follow each concern identified in the chapter and where rationale for the recommendations is discussed.

Chapeau: All articles referred to in the following paragraphs are those contained under chapter II of the Proposed Compromise Agreement for the resolution of the Conflict in the Republic of South Sudan.

Concerns

1. Permanent Ceasefire – (Clause 1)

a) Clause 1.1 states that: The GRSS and the SPLM/A-IO shall declare a Permanent Ceasefire, which shall enter into force in seventy two (72) hours upon the signing of this Agreement to ensure sustainable peace, and facilitate the operationalization of the Transition Security Arrangement and the resettlement of returnees and Internally Displaced Persons (IDPs).

We feel the declaration of an end of the conflict should be done through the signing of the agreement, such that entry into force of the agreement would automatically imply a permanent termination of the armed conflict.

Terminating the hostilities is not only to ensure sustainable peace, and facilitate the operationalization of the Transition Security Arrangement and the resettlement of returnees and Internally Displaced Persons (IDPs). It marks the return of peace.

There are certainly many other reasons why the hostilities should be terminated and peace should return. Therefore, mentioning of some reasons appears redundant in this article.

Recommendations;

Emphasis should exactly be given to ending and implementing the agreement. Therefore, we think Clause 1.1 could be more precise and target the termination of the hostilities and emphasize its entire implementation rather than terminating it for specific reasons.

Suggested Texts:

1.1 The GRSS and the SPLM/A-IO hereby declare that the armed conflict between the GRSS and the SPLM/A-IO is ended with immediate effect and that they have reached definitive agreements which, the implementation will put a final end to the armed conflict in the Republic of South Sudan.

1.2 The GRSS and the SPLA/M- IO will ensure that a total and permanent cessation of hostilities is observed forthwith. Accordingly, the two sides agree that all their forces shall immediately disengage and refrain from all hostilities and from any deployment, movement or action which would extend the territory they control or which might lead to renewed fighting.

b) We find clause 1.4 inconsistent as it attempts to integrate the January 23 agreement into the July proposed text for 2 main reasons. First, to integrate it to the July proposal, there should have been a paragraph that stresses that “the January 23rd CoH agreement is an integral part of this agreement and as herein appended.” Secondly, the main inconsistency arises in the provisions of withdrawal of foreign forces. Whereas, the January 23rd agreement calls for redeployment and/or progressive withdrawal of allied forces invited by either side, the July text calls for beginning of withdrawal of foreign forces within 72 hours and completion within 45days.

Moreover, the record of implementation of the January 23 CoH agreement has been notably weak and problematic. As reports indicate, the CoH has already been violated over 42 times since its entry into force and no allied forces were reported to have been redeployed or withdrawn within the stipulated period.

Recommendations;

- Instead of basing implementation the ceasefire & security arrangement provisions on the previous CoH agreement, explicitly include texts from the previous agreement into this version. Reference to The January 23 Agreement could still be included in the preamble.
- Only make references to portions of previous agreements that have had a history of commitment both on paper and reality on ground.

c) The whole chapter does not include mechanisms to be invoked when any or both parties violate the permanent ceasefire and/or the agreed transitional security arrangements. This is problematic because as the costs of violation or circumvention are unknown, it will be difficult to deter the parties from reigniting the fire that might have been ceased.

Recommendations;

- Include a clause that explicitly states that verified report of violation of the permanent ceasefire shall be submitted to the Peace and Security Council of the AU and the UN to consider sanctions and other appropriate punitive/disciplinary measures.

d) Clause 1.7 provides for Permanent Ceasefire and Transitional Security Arrangements (PCTSA) workshop in which some critical decisions shall be made such as; Declaring the disposition of forces down to battalion level; demilitarized areas; Withdrawal routes and; Cantonment/Assembly areas; However, the article does not indicate how many representatives each party shall be requested to nominate; how decisions will be made in this meeting and what happens in case of a stalemate.

Recommendations,

- The chapter should be explicit about the number of representatives expected to attend the workshop and their expertise on each side of the parties, interims of whether they should come from military or political cadres.
- This relevant clause should also indicate the mode of decision making in the workshop provided for herein and include a caveat to move the process forward in case of stalemate.

2. Separation, Assembly and Cantonment – (Clause 2)

Clause 2.7 requires complete declaration of personnel and equipment of forces not in cantonment to the Strategic Defense and Security Review Board (SDSR) no later than ninety (90) days after signing this Agreement, in order to facilitate the SSRT process, yet in clause 7.1 the agreement gives the same 90 days for the establishment of the SDSR. This does not give adequate breathing space in terms of sequencing.

Recommendation;

- Review timelines of items required in clause 2.7 under Separation, Assembly and Cantonment and clause 7.1 under Strategic Defense and Security Review to ensure clear logical sequence. One way of doing this is to reduce the period for establishment of the SDSR board to 60 days after signing of agreement.

3. Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM) – (Clause 4).

a) Clause 4.1 establishes the Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM), chaired by IGAD and comprising of 18 other stakeholder representatives and 3 more IGAD representatives.

This gives IGAD four (4) seats in the monitoring mechanism. That is higher than all the other stakeholders. Moreover, there are no criteria for appointing the chairperson. Considering the role of some IGAD members in the conflict, without clear criteria how the members shall be nominated, this provision risks generating conflict at the stage of implementation.

Recommendation

- The clause should be amended to Include criteria for nomination of the Chair of the (CTSAMM). We suggest the criteria include that the Chairman shall be an individual who is and has been neutral in the conflict, person of integrity, independent and endorsed by the IGAD plus.
- b) Clause 4 provides for the inclusion for civil society representatives to the CTSAMM. (Women’s bloc – 1, Youth – 1, CSOs – 1) However, it is silent on how these representatives shall be nominated.

We note with concern that past processes of nomination of civil society representatives to the IGAD mediated talks has been marred by manipulation and lack of transparency. It has caused a situation

where some representatives of civil society are actually allied to one of the warring parties and/or incompetent. This has undermined the effectiveness of civil society participation in the peace process. This situation can and should be prevented at the level of implementation.

Recommendation

We suggest inclusion of a Clause reading: The representatives of Youth, Women and CSOs who will participate in this committee shall be nominated in separate workshops of their respective constituencies and shall fall within the following main criteria;

- Legally Registered in the Republic of South Sudan
- Having physical Address in South Sudan
- Have operational functionality for the last 2 years.

We further recommend that IGAD – plus representatives attend these workshops as observers. This would help ensure that the right civil society representatives are nominated and through the right process.

4. De-Militarization and Arrangements for the National Capital and Transitional Third Party Security Unit – (Clause 5 & 6).

a) Under this part, clause 4.1 provides for demilitarization of Juba as a host capital of the TGoNU. We support the demilitarization and find it necessary to initiate a sense of return of peace and new beginning, prevent tension and clashes between forces and lessen contact between civilians and the military like professional armies in functional states anywhere in the world. However, we believe the suggested zone of 25km from the city center to be demilitarized is inadequate. That is because, we consider that the distance – 25km could easily be covered and it is not far enough to prevent the high level of contacts between civilian populations and the military.

Recommendation

We recommend that the 25km be extended by 10km to bring up the total zone to be demilitarized to 35km of radius from the center of the city.

b) Clause 5.1 of the July proposal will require all military and paramilitary forces in Juba with the exception of Presidential guards 4 platoons – 260 soldiers and Vice President’s guards 195 – 3 platoons, Forces required to protect military barracks. It is not clear what number of platoons will take care of the Vice President that is established under Chapter I a clause 4 (Structure of the Executive of the TGoNU), which states that there shall be President, First Vice and a Second Vice.

Moreover, there is also no indication of the size of forces that shall be allowed to remain to guard the barracks and whether it shall be the newly united joint forces or forces of GRSS only.

Thirdly, the proposed agreement text is silent about the law enforcement and the national security agencies that shall have remained in the demilitarized zone together with the third party security Unit and how they will cooperate with the third Party Security Unit.

Fourthly, clause 5.3.4 is not precise about the nature of the Transitional Third Party Security Unit. It says “The third-party security unit (UNMISS, IGAD, AU etc”. We feel that while this provides a

great space for flexibility, it can be problematic as it also comes with a huge amount of uncertainties. For instance, this provision leaves a number of critical and unanswered the questions of a) Will the third party security unit be composed of a joint force of UNMISS, IGAD and AU, if so, what shall guide the cooperation and hierarchy b) How will IGAD with no experience of Peace Keeping undertake this task; c) How the third party security unit be composed without forces from countries know to be directly or indirectly supporting one side of the warring parties? For instance, there is an anticipated risk that the third party security arrangement may just become a means to assure Uganda and Sudan of their national security interests rather than serving the intended guarantor purpose while fully respecting the sovereignty of South Sudan; d) What possible forces fall under the “etc” category.

Recommendations

- On the body guard for the vice President; clause 5.3 should explicitly state where the body guards for the Vice President shall be drawn from. If it shall be done in the same manner as the President and the 1st Vice President, let it be mentioned in the agreement and how big that platoon shall be. Following the same order, that would come to 2 platoons.
- On the forces to guard the barracks; there has to be a mechanism embedded in clause 4 to set out the process of reaching to the right size, national oversight and nature of the forces to guard the barracks. That would set clear guidelines to follow in making these critical decisions and it would ease monitoring of compliance.
- On other law enforcement agencies – clause 6.3; the agreement should include a clause on the status of other law enforcement agencies and National Security Personnel that shall remain in Juba if implied that these units shall not be affected by the vacation requirement provided in clause 5.1. We recommend that if these forces shall remain in Juba, there be included a mechanism to guard against the military simply changing outfits in order to fit in the new order, which would mean that demilitarization has actually not taken place.
- Since the third party security unit shall undertake similar tasks to that of law enforcement agencies, they should coordinate under the Joint Operations Center to avoid confusion and clashes in responsibilities.
- On the composition of the Third Party Security Unit –; we recommend that the agreement bestows the responsibility to UNMISS & AU. All other forces should be deployed under the auspices of the two entities acting under Joint Forces of any arrangement that shall have been agreed. We further advise the warring parties against accepting a mechanism that would allow Ugandan and Sudanese forces from being part of the proposed third party security unit. This is because of the demonstration of conflicts of interest, especially regarding their own and respective national security interests. Such an arrangement risks undermining the sovereignty of South Sudan and jeopardizing the transitional security arrangement. The unit could be composed of forces from countries not sharing borders with South Sudan.

5. Strategic Defence and Security Review (SDSR) – Clause 7

We welcome the idea of the Strategic defense review and believe if conducted in a transparent manner; it can achieve important recommendations that are critical for rebuilding South Sudan's security architecture. However, clause 7, is not clear about how the Strategic Defence and Security Board shall be run. This includes, who will chair the board and what rules of procedures shall be applied, especially how board will reach decisions.

On another note, we find the more emphasis on military review and assessment and less on other aspects of SSR requirements, yet it is intended to guide the whole SSR and defense transformation process. Over emphasis on the military may produce biased recommendations in favor of the military. Since resource allocation shall also be based on needs pointed out by the recommendations that might deprive other departments in the overall security sector reform process.

Recommendations

- Clause 7 should be explicit about either who will be the chair or how the chair shall be agreed upon. The agreement should also mention how the review will be done especially regarding decision making.
- Emphasis should generally stress that the review shall focus on overall requirements for Security Sector Reform and defense transformation. This should be underpinned by analysis of national security threats and, interests and how South Sudan can protect them; using what strategies, capabilities and resources.
- The number of Civil Society representative, Women, Youth reps and Academia should be increased to 2 persons per each group. This would facilitate gender balance in representation.

6. Strategic Defense and Security Review Board lifespan and coordination of SSRT

Clause 7.5 indicates that the SDSR Board shall be established, and the board shall provide the roadmap for security Sector Transformation. However there is no provision that establishes a mechanism to ensure harmony and consistency in the implementation of the roadmap after findings of the board has been adopted. This leaves the SSRT implementation stage, uncoordinated process. That would be very challenging in terms of consistency in policies, legislations, resourcing, and sequencing of reform tracks in the SSRT process. Besides, the 18 months timeframe to complete the unification of forces (Clause 8.2) does not mark an end to the SSRT process. A great deal of work will remain to be done and that raises the coordination issue that remains unaddressed.

Recommendation

- The agreement should establish an SSR commission. The mandate of the commission would be that of coordinating all SSR related programming and implementation, monitoring and fostering consistency in policy making and resourcing for SSR related efforts.
- The commission could also serve as a secretariat for the Strategic Defense and Security Review board. Since the mandate of the SDSR Board ends after submission of their findings to the political leadership and publication of the findings, it could transition implementation and monitoring matters to the SSR commission.

7. Unification of Forces – (Clause 8).

There is no mention of the establishment of new army, police, National Security Services etc despite emerging consensus among the parties for unified and new security architecture in the previous positions papers submitted. The transitional constitution also explicitly states the formation of Armed Forces of South Sudan.

Recommendation

- Clause 8 should begin by stressing that “*there shall be a new army called the South Sudan Armed Forces.*” The new army will have a new command that shall be drawn from forces of GRSS, SPLA-IO and civilians who are interested and meets the relevant criteria set.
- Pending the overall unification, GRSS and SPLM/A-IO shall screen their forces and contribute their most capable and highly professional personnel to form the nucleus of the new united army. The new united army shall be reoriented with a national and professional military ideology, further trained and well equipped to increase their operational effectiveness.
- The percentages of the new army should be agreed by the parties at the PCTSA workshop. However, it should be deliberated while taking into consideration the principle of inclusiveness. To be responsive to ethnic diversity, “not more than 15 percent of the forces forming the nucleus of the army shall be drawn from any one ethnic group.
- The nucleus of the new army shall replace the third party security unit towards the end of the transitional period.

8. Civilian Disarmament – The missing piece

The July proposed agreement is silent about civilian disarmament. The CPA that ended the civil war between the South and Khartoum was also silent about civilian disarmament; as a result, the issue of civilian disarmament was swept aside in the national peace building priorities. Consequently, from 2005 hitherto, civilian disarmament has been conducted in a haphazard manner. This has produced mixed outcomes. Where there were successes in arms collection, communities rearmed and where communities refused to surrender their arms, coercive efforts resulted into needless bloodshed. This has pitched South Sudan in a cycle of disarmament – and – rearmament. This cycle is not only a waste of resources but a major challenge to state legitimacy before the outbreak of the current crisis. Besides, as the main political conflict rages on, a number of communities are caught up in inter-communal violence, there by undermining rule of law and the legitimacy of the state.

Recommendations

- The peace agreement should include clear commitments from all the parties to embark on a nationwide civilian disarmament campaign before the next election is conducted. This would provide for disarmament to be well planned and properly sequenced as one of the key security tasks to undertake during the transitional period.

Suggested structure for including an article on civilian disarmament

There shall be initiated a process of nation-wide civilian disarmament during the transitional period. The process shall be undertaken at least 12 months before the end of the transitional period. It shall take 3 phases.

- 1) National Consultation on peaceful disarmament.*
- 2) Development of a strategy for civilian disarmament, review of policy and legislation to control Small Arms and Light Weapons.*
- 3) Formation of multi-stakeholder National Committee on Disarmament to oversee the arms collection, registration, safe storage and destruction. The committee shall consist of the following;*
 - 1) GRSS*
 - 2) SOPLM/A – IO*
 - 3) UNMISS*
 - 4) CSOs*
 - 5) Traditional Leaders*
 - 6) Youth*
 - 7) Women*
 - 8) Religious Leaders*
 - 9) Other Political parties*

Reference:

Submission dated February 25, 2014 to the parties negotiating peace for South Sudan, under the mediation of IGAD. Civil Society Submission on Security Sector Reform and Defence Transformation; Available here: <<http://ssansa.org/wp-content/uploads/2015/08/142402-Civil-Society-Submission-on-Security-Sector-Reform-Defense-Transformation.pdf>>