

## **Developments in South Sudan Conflict: There is no finite mandate for the 3 envoys of IGAD mediating the Conflict in South Sudan**

Our Articles 1 to 3 and 5 to 41 were situation analyses of the conflict in South Sudan. Our articles 4 (A), 4 (B) and 4 (C) were the first of our series on “Who is Who”. This article 52 is dedicated to summarise our research for the past two weeks to establish if there were or were not a finite mandate for the Envoys.

### **Findings:**

1. Over 30 documents were analysed.
2. IGAD Founding Agreement of March 21<sup>st</sup> 1996 has no provisions for the modality of interventions (Similar to Chapter VI and Chapter VII of the UN Charter).
3. Article 6A-c of the IGAD Founding Agreement calls for settlement of disputes peacefully through dialogue.
4. Article 9 stipulates for the Assembly of Heads of State and Government to “Give guidelines and monitor political issues especially on conflict prevention, management and resolution”. Once more no punitive actions are envisaged. No authority to arbitrate and enforce solutions as they did on August 25<sup>th</sup> 2014.
5. The Peace and Security Council of the African Union (AU), at its 411th meeting held at the level of Heads of State and Government, in Banjul, The Gambia, on 30 December 2013, adopted the following **decision** on the situation in South Sudan:..... Article 9 stipulates: “Expresses its intention to take appropriate measures, including targeted sanctions, against all those who incite people to violence, including along ethnic lines, continue hostilities, undermine the envisaged inclusive dialogue, hinder humanitarian operations, undermine the protection mandate of UMISS and carry out acts of violence against civilians and unarmed combatants, and to seek the support of the UN Security Council. Council requests the Commission, working closely with IGAD, to initiate preparatory steps in this regard”
6. That was probably the strongest language we came across. The much hailed communiqué of the 23<sup>rd</sup> Extraordinary Summit of IGAD held in Nairobi on 27<sup>th</sup> December 2013 is not a Mandate. It “Appointed the Envoys: “Appoints General Lazaro Sumbeiywo of Kenya and Ambassador. Seyoum Mesfin of Ethiopia and a representative from the Republic of the Sudan as our Special Envoys for South Sudan”
7. It further states: The Assembly of Heads of State and Government “Made the following **decisions**: Stakeholders in the Republic of South Sudan: Welcomed the commitment by the Government of the Republic of South Sudan on immediately beginning unconditional dialogue with all stakeholders; Welcomed the commitment by the Government of the Republic of South Sudan to an immediate cessation of hostilities and called upon Dr. Riek Machar and other parties to make similar commitments; Determined that if hostilities do not cease within 4 days of this communiqué, the Summit will consider taking further measures; Requested all parties to accept a monitoring, verification and

stabilisation mechanism; Undertake urgent measures in pursuit of an all inclusive dialogue including reviewing the status of the detainees in recognition of their role in accordance with the laws of the Republic of South Sudan, and in creating a conducive environment for all stakeholders to participate and determines that face-to-face talks by all stakeholders in the conflict should occur by the 31<sup>st</sup> of December 2013; Ensure the protection of civilians and humanitarian workers including those from neighbouring countries; Strongly Condemns criminal acts of murder, sexual violence, looting and other criminal acts against civilians and unarmed combatants by any actor and demand that all involved be held responsible by their de-facto and or de jure leaders.” That is the crux of the communiqué and that is not a “Mandate” for the Envoys. Those are “decisions”.

8. The tone of IGAD, (from day one on December 27<sup>th</sup> 2014) was “Threatening” and rough.
9. It was unbalanced as it pre-judged the SPLM/A-IO: Look at what they say:” Condemns all unconstitutional actions to challenge the constitutional order, democracy and the rule of law and in particularly condemns changing the democratic government of the Republic of South Sudan through use of force”. Crude! Judgemental! Not one word that ALL those killed in Juba were Nuers. As if Riek Machar was flown in from Timbuktu to be VP of South Sudan and not elected on the same ticket as Salva Kiir. Is John Luk responsible even after his unconditional public apology yesterday? Not enough “Abu Roy” but we will write on that later!
10. One stakeholder alluded to the 7 pages of the document “Phase II Session IV Agenda and Consolidated Modalities and Rules of Procedure for the South Sudan Dialogue” as possible partial “Mandate”. Nothing in the document and its 11 Rules alludes to “Mandate”. This document was developed by “The Office of the Special Envoys for South Sudan”. How can the Envoys develop their own mandate?
11. We were unable to get a signed copy of the document. A primary stakeholder tells us they never even discussed it. The two primary stakeholders confirmed to us that they never signed the document.

## Conclusions

1. **There is no finite and bona fide mandate established by the Heads of States of IGAD.**
2. There is no finite and bona fide mandate established as original or corollary to other resolutions by the AU or the UNSC.
3. There is no proof of any primary stakeholders’ party receiving or accepting any form of document as Mandate.
4. With the exception of one political party from South Sudan, there is unanimous consent from stakeholders that there is no finite mandate for the IGAD process.
5. IGAD and satellite organizations were not able to give us a document identified as “Mandate”.
6. It is our conclusion that IGAD Envoys/Mediators were operating (and still are) on Ad hoc basis to manage the process.
7. We were unable, after reviewing all relevant documentation, to come up with the natural sequence of Resolutions >>> Mandate >>>TOR >>>Guiding Principles >>>>and Ground Rules >>>Modalities and Procedures.

## **Recommendations**

1. The two primary stakeholders need to demand a clear mandate for the Envoys. One of the two primary stakeholders believes the Envoys are to undertake “State Building” for South Sudan and not “Mediation”. Confusion must be removed. Neither the Envoys nor IGAD have the capacity to do State Building anywhere. Germany and Japan took Marshal Plan and 7 years to do State building. Kosovo and Bosnia took both the NATO and the UN. Iraq failed. Afghanistan took 13 years to date and no visible success. Somalia failed humiliating the US and partners.... It is not a joke.
2. IGAD Assembly of Heads of State and Government needs to develop a clear and finite “Mandate” for their envoys that does not exceed the authority of their Assembly as stipulated in the Founding Agreement.
3. If IGAD truly means to venture State Building in South Sudan they can keep their “Envoys”. But if they want to remain within the Founding Agreement and do “Mediation” then call a spade a spade and name them “mediators”.
4. All Stakeholders that we talked to except one are determined to demand a clear mandate before they re-engage in the next round earmarked for October 20<sup>th</sup>. May be a strong collective demand is to be tables.
5. To avoid confusion in the future, the proposed mandate is to be agreed by the two primary stakeholders

We hope this is useful

Subsahara Centre  
Ottawa, Canada