

**Proposal of the
Max Planck Institute for Comparative Public Law and
International Law**

SUDAN

Draft Constitutional Framework for the Interim Period

Drafted by
Professor Rüdiger Wolfrum
Professor Thomas A. Mensah
Professor Fred L. Morrison

Heidelberg, January 2005

INTRODUCTION

The *Draft Constitutional Framework for the Interim Period for the Sudan* has been put together by myself and a group of expert colleagues who had already participated in the Heidelberg Dialogue. The Max Planck Institute for Comparative Public Law and International Law together with the said external colleagues have followed the peace negotiations between the Government of Sudan and the SPLM closely as far as this was possible from the outside. Being committed to assist in the peace building efforts in Sudan we felt it to be timely to publish a model for a Constitutional Framework for the Sudan.

The *Draft Constitutional Framework for the Interim Period for the Sudan* is a compilation of provisions, which (a) have been agreed upon in different parts of the Comprehensive Peace Agreement as well as in the 'Draft Legal and Constitutional Framework to govern the Interim Period' as drafted during the Heidelberg Dialogue in November 2002 and (b) derive -as far as the Peace Agreement permits- from the relevant provisions of the Constitution of the Republic of Sudan of 1998. Although the Protocols which were negotiated under the chairmanship of IGAD constitute a Peace Agreement between the Government of Sudan and the SPLM they also contain, as far as their substance is concerned, the relevant elements of the Constitutional Framework for the Interim Period. Therefore it was only required to bring the respective rules into a formal order appropriate for a constitution and to transform the articles into a suitable constitutional language. In compiling the present text we have made every effort not to deviate from the substance of the Protocols. Following each of the articles a cross-reference to the corresponding provisions of the Protocols (Machakos Protocol, Agreement on Security Arrangements, Agreement on Wealth-Sharing, Protocol on Power Sharing, Protocol on the Resolution of Conflict in Southern Kordofan / Nuba Mountains and Blue Nile States, Protocol on the Resolution of Abyei Conflict) or the Constitution of the Republic of Sudan of 1998 or the 'Draft Legal and Constitutional Framework to govern the Interim Period' (Heidelberg Draft) has been inserted so as to provide for full transparency.

We are aware that the Protocols are open for interpretation and that others may come up with a different draft text. Therefore our text should be seen as one option amongst others for transforming the Peace Agreement into a Constitutional Framework. Anyhow, the responsibility to draw up the Constitutional Framework for the Sudan rests with the National Constitutional Review Commission alone, in the work of which we do not intend to interfere.

We have decided to widely distribute this text so as to foster the awareness of the constitutional implications of the Peace Agreement and to provide a basis for the discussion which will develop on this issue. In particular, we intended to facilitate and to assist the work of the Constitutional Review Commission by providing one possible blueprint for a Constitutional Framework for the Interim Period.

Rüdiger Wolfrum

Director

Max Planck Institute for Comparative

Public Law and International Law

Heidelberg

January 2005

ABBREVIATIONS:

ASA	Agreement on Security Arrangements
C.f.	Indicates, that a provision has not been included in its original wording, but has been partly amended in order to make it fit a constitutional language.
Const98	Constitution of Sudan (1998)
HD	Heidelberg Dialogue Draft
MP	Machakos Protocol
PSP	Power Sharing Protocol
WSA	Wealth-Sharing Agreement

Draft Constitutional Framework for the Interim Period

PREAMBLE	1
Part One: The State and Basic Principles	2
Article 1.01: The State	2
Article 1.02: Basic Principles	2
Article 1.03: State and Religion	2
Article 1.03A: Levels of government	3
Article 1.03B: Principles regarding the Distribution of Powers	3
Article 1.03C: Principles of Administration and Inter-Governmental Linkages	4
Article 1.04: Language	5
Article 1.05 Referendum	5
Part Two: Human Rights and Fundamental Freedoms	6
Article 2.01: Basic Principles	6
Article 2.02: Internationally Accepted Human Rights	6
Article 2.03: Right to life and human dignity	6
Article 2.04: Prohibition of Torture	7
Article 2.05: Prohibition of slavery and forced labour	7
Article 2.06: Right to privacy	7
Article 2.07: Right of personal liberty and security	7
Article 2.08: Right to fair trial	8
Article 2.09: Due process and Rule of Law	8
Article 2.10: Freedom of movement	9
Article 2.11: Rights of refugees and internally displaced persons	9
Article 2.12: Freedom of Thought, Conscience and Religion	9
Article 2.13: Freedom of opinion and expression	10
Article 2.14: Freedom of assembly and association	10
Article 2.15: Independence of the media	10
Article 2.16: Political Associations	11

Article 2.17: Equality, freedom from discrimination	11
Article 2.18: Family, marriage, rights of children	11
Article 2.19: Nationality	12
Article 2.20: Political Rights	12
Article 2.21: Property rights	12
Article 2.22: Educational and cultural rights	13
Article 2.23: Rights of cultural and ethnic communities	13
Article 2.24: Rights of disabled persons	13
Article 2.25: Equality of pay	13
Article 2.26: Equal access to health care and public social services	13
Article 2.27: Right to a Healthy Environment	13
Article 2.28: Duties of citizens	14
Article 2.29: Enactment of legislation to protect human rights	14
 Part Three: The National Legislature.....	15
Article 3.01: National Institutions during the Interim Period	15
Article 3.02: The National Legislature	15
Article 3.03: Organization of the National Legislature	15
Article 3.04: Elections to the National Assembly	16
Article 3.05: Composition of the National Assembly pending elections	16
Article 3.06 (a): Composition of the Council of States	16
Article 3.06 (b): Composition of the Council of States pending elections	16
Article 3.07: Conditions of membership of the National Assembly and of the Council of States	17
Article 3.08: Lapse of membership of the National Assembly and of the Council of States; removal from office	17
Article 3.09: Seat of the National Assembly and of the Council of States	18
Article 3.10: Oath of members of the National Assembly and of the Council of States	18
Article 3.11: Term of the National Assembly and of the Council of States	18

Article 3.12: Privileges and immunities of members of the National Assembly and of the Council of States	18
Article 3.13: Officers, procedures in the chambers of the National Legislature	19
a. The National Assembly	19
b. The Council of States	20
Article 3.14: Meetings	21
Article 3.15: Functions of the National Legislature	21
Article 3.16: Distribution of legislative competences	22
Article 3.17: Constitutional amendments, laws and other acts of the National Legislature	23
 Part Four: The National Executive	 24
Article 4.01: Composition	24
Article 4.02: Decisions of the President with the consent of the First Vice President and through consultation of the Presidency.....	24
Article 4.03: Election of the President and vacancy in the office of President	25
Article 4.04: Oath of assuming the Presidency of Sudan	26
Article 4.05: Term of office of the President and of the Vice Presidents	26
Article 4.06: Competence of the President	26
Article 4.07: Annual report	27
Article 4.08: Privileges and immunities of the President and the Vice Presidents; removal from office	27
Article 4.09: Actions of the President	27
Article 4.10: Council of Ministers	28
Article 4.11: The Government of National Unity: General Principles	28
Article 4.12: The Government of National Unity: Competencies	28
Article 4.13: The Government of National Unity: Organizational aspects	29
Article 4.14: The ministers, status and functions	29
Article 4.15: Contest of acts of the Council of ministers or a minister	30
Article 4.16: Civil Service	30

Article 8.18: Accounting Standards and Procedures and Fiscal Accountability	48
Article 8.19: Financing Transition	48
Article 8.20: Monetary Policy, Banking and Currency	48
Article 8.21: Borrowing	50
Article 8.22: Reporting of financial data	51
Article 8.23: Reconstruction and Development Funds	51
Article 8.24: National Reconstruction and Development Fund (NRDF)	51
Article 8.25: Multi-Donor Trust Funds	52

**Part Nine: Establishment of Independent and/or National Institutions in
accordance with the Peace Agreement53**

Article 9.01: National Electoral Commission	53
Article 9.02: Human Rights Commission	53
Article 9.03: National Judicial Service Commission	53
Article 9.04: National Civil Service Commission	53
Article 9.05: Ad-hoc Commission to monitor and ensure accuracy, legitimacy, and transparency of the Referendum	54
Article 9.06: Fiscal and Financial Allocation and Monitoring Commission	54

Part Ten: The National Judiciary55

Article 10.01: General Principles Concerning the Judiciary	55
Article 10.02: The Courts	55
Article 10.03: The Constitutional Court, general principles	56
Article 10.04: Jurisdiction of the Constitutional Court	56
Article 10.05: Composition of the Constitutional Court	57
Article 10.06: The National Supreme Court	57
Article 10.06A: Other national courts	58
Article 10.07: Appointment of national judges	58
Article 10.07A: Southern Sudan Courts	58

Article 10.07B: Jurisdiction of State Courts	59
Article 10.07C: Judicial Procedure	59
Part Eleven: Armed Forces	60
Article 11.01: Precedence of the Peace Agreement Concerning Military Issues	60
Article 11.02: Sudanese Armed Forces (SAF)/Sudan People's Liberation Army (SPLA)	60
Article 11.03: Joint/ Integrated Units	60
Article 11.04: Joint Defence Board (JDB)	61
Article 11.05: Common Military Doctrine	61
Article 11.06: Status of Other Armed Groups in the Country	61
Part Twelve: Constitutional Review Process	62
Article 12.01: National Constitutional Review Commission, Composition and Primary Function	62
Article 12.02: Additional Functions of the Constitutional Review Commission	62
Article 12.03: Adoption of the Constitutional Text	63
Article 12.04: Compatibility of the Constitution of Southern Sudan and of the States/Regions with the Interim National Constitution	63
Part Thirteen: Referendum	64
Article 13.01: Self-determination for the people of Southern Sudan	64
Article 13.02: Referendum	64
Article 13.03: Preparation for the Referendum	65
Part Thirteen-A: Southern Sudan	66
Article 13A.01: Southern Sudan	66
Article 13A.02: Constitution of Southern Sudan	66
Part Thirteen-B: States	66
Article 13B.01: States	

Article 13B.02: State Constitutions	66
Part Thirteen-C: Special Areas	66
Article 13C.01: Kordofan/Nuba Mountains, Blue Nile, and Abyei	66
Part Fourteen: Final Clause	67
Article 14.01: Duration	67
SCHEDULE A: NATIONAL POWERS	68
SCHEDULE B: POWERS OF THE GOVERNMENT OF SOUTHERN SUDAN	69
SCHEDULE C: POWERS OF STATES	71
SCHEDULE D: CONCURRENT POWERS	73
SCHEDULE E: RESIDUAL POWERS	75
SCHEDULE F: RESOLUTION OF CONFLICTS IN RESPECT OF CONCURRENT POWERS	75

Draft Constitutional Framework for the Interim Period

PREAMBLE

CONSCIOUS of the need for an expeditious termination of Sudan's protracted and costly civil war;

MINDFUL AND AWARE of the yearning of all the Sudanese people for an early, just and lasting peace;

ENCOURAGED by the progress made thus far in the pursuit of our objective of achieving a comprehensive Peace Agreement in Sudan;

DETERMINED to lay a foundation for sustainable peace and development in Sudan and to enhance the well-being of the people;

RESOLVED to establish a political structure and government that is responsible, just, transparent, led by the people and based on integrity;

CONVINCED that decentralization and empowerment of all levels of government are cardinal principles of effective and fair administration of the country.

THE PEOPLE OF SUDAN establish this Constitutional Framework for the Interim Period:

(c.f. Preamble of Power Sharing Protocol, PSP)

Part One:

The State and Basic Principles

Article 1.01

The State

The State of Sudan is a common homeland, wherein races and cultures coalesce and religions conciliate. Islam is the religion of the majority of the population. Christianity and customary creeds have considerable followers.

(c.f. Art. 1 Const98)

Article 1.02

Basic Principles

This Constitutional Framework is based upon and guided by the following principles:

- (a) the unity of Sudan, which is based on the free will of its people; democratic governance; accountability of government; equality of all citizens of Sudan; and respect and justice for all citizens. (c.f. Art. 1.1 Machakos Protocol, MP; c.f. Art. 2 Const98)
- (b) the powers of government emanate from the Sovereign Will of the People exercised in free, direct, equal, secret and periodic elections with universal adult suffrage;
- (c) the foundation of the legal system is the rule of law and due process;
- (d) Sudan is a multi-cultural, multi-racial, multi-ethnic, multi-religious, and multilingual country. None of these elements shall be used as a dividing factor; (Agreed Text on State and Religion, MP; c.f. Art. 6 Const98)
- (e) religion, beliefs, customs and traditions are a source of moral strength and inspiration for the Sudanese people.
(Art. 6.1 MP)

Article 1.03

State and Religion

- (1) Eligibility for public office, including the Presidency, public service and the enjoyment of all civic rights and the performance of public duties shall be based solely on citizenship and not on religion, beliefs or customs. This provision shall not apply to public offices which are religious in character.
(Art. 6.3 MP; c.f. Art. 21, 126 Const98)
- (2) The National Legislature and the legislature of Southern Sudan shall provide, by appropriate legislation, that personal and family matters, including marriage, divorce, inheritance, succession, and affiliation shall be governed by the personal laws of the persons concerned. Personal laws include, where applicable, Sharia or other religious laws, and the customs or traditions of the persons involved.
(Art. 6.4 MP)

- (3) Subject to this Constitutional Framework, the National Legislature may enact or empower states to enact criminal laws based on Sharia. Such laws shall not be applicable within Southern Sudan.
(C.f. Art. 3.2.3 MP)
- (4) The National Legislature shall determine the weekly holiday and other public holidays in Sudan, taking account of the holidays of the different religious groups in Sudan. Reasonable accommodation shall be made with regard to observance of the weekly holiday. The legislature of Southern Sudan has the power to take a separate decision with regard to the weekly holiday and other holidays in Southern Sudan or parts thereof.
(C.f. Art. 6.5 (eight star) MP; C.f. Art. 2.01 Heidelberg Dialogue Draft, HD)
- (5) Special provisions applicable to Khartoum are set out in Part Five of this Constitutional Framework.

Article 1.03A

Levels of government

The structures of governments in the Sudan shall be as follows:

- (1) The National level of Government which shall exercise authority so as to protect and promote the national sovereignty of Sudan and the welfare of its people;
- (2) The Southern Sudan level of Government which shall exercise authority in respect of the people and States in the South;
- (3) The States throughout Sudan which shall exercise authority at the state level and render public services through the level of government close to the people; and
- (4) The level of local government throughout the Sudan.

(Art. 1.3 PSP)

Article 1.03B

Principles regarding the Distribution of Powers and establishment of structures

The following principles shall guide the distribution of powers and the establishment of structures:

- (1) Recognition of both the sovereignty of the nation as vested in its people as well as the need for autonomy of the Government of Southern Sudan and States throughout the Sudan;
- (2) Affirmation of the need for both national as well as state and Southern Sudan norms and standards so as to reflect the unity of the country and the diversity of the Sudanese people;
- (3) Acknowledgement of the need to promote the welfare of the people and protect their human rights and fundamental freedoms;
- (4) Recognition of the need for the involvement and participation of the people of Southern Sudan at all levels of government and National institutions as an expression of the national unity of the country;

- (5) Pursuit of good governance, accountability, transparency, democracy, and the rule of law at all levels of government to achieve lasting peace;
- (6) Recognizing the need to legitimize the arrangements agreed to herein, fair electoral laws shall be adopted, including the free establishment of political parties. Elections at all levels of government shall be held by universal adult suffrage.

(Art. 1.4 PSP)

Article 1.03C

Principles of Administration and Inter-Governmental Linkages

In the administration of the Government of National Unity, the following provisions shall be respected:

- (1) There shall be a decentralized system of government with significant devolution of powers, having regard to the National, Southern Sudan, State, and Local levels of government;
- (2) The Interim National Constitution, being the legal and constitutional framework text adopted as contemplated in paragraph 2.12.6 herein, shall be the Supreme Law of the land and the Southern Sudan Constitution, state constitutions, and the laws of all levels of government must comply with it;
- (3) The linkage between the National Government and the states in the Southern Sudan shall be through the Government of Southern Sudan, subject to paragraph 1.5.1.4 below, and as provided for in the Interim National Constitution and the Southern Sudan Constitution;
- (4) In their relationships with each other or with other government organs, all levels of government and particularly National, Southern Sudan, and State Governments shall:
 - (a) Respect each others' autonomy;
 - (b) Collaborate rather than compete, in the task of governing and assist each other in fulfilling each others' constitutional obligations;
 - (c) Perform their functions and exercise their powers so as:
 - (i) Not to encroach on another level's powers or functions;
 - (ii) Not to assume another level's powers or functions conferred upon it by the Constitution;
 - (iii) To promote co-operation between them;
 - (iv) To promote open communication between government and levels of government;
 - (v) To strive to render assistance and support to other levels of government;
 - (vi) To advance the good co-ordination of governmental functions;

- (vii) To adhere to procedures of inter-governmental interaction as agreed upon;
 - (viii) To promote amicable settlement of disputes before attempting litigation;
 - (ix) To respect the status and institutions of other levels of government.
- (d) Allow the harmonious and collaborative interaction of the different levels of government within the context of national unity and for the achievement of a better quality of life for all.

(Art. 1.5 PSP)

Article 1.04 Language

- (1) All the indigenous languages of Sudan have the status of national languages and they shall be equally respected and promoted.
- (2) Arabic language is the most widely spoken national language in the Sudan.
- (3) Arabic, as the major language at the national level, and English shall be the official working languages for National Government business and the languages of instruction in institutions of higher education.
- (4) There shall be no discrimination against the use of either Arabic or English at any governmental level or stage of education in Sudan.
- (5) In addition to Arabic and English, the legislature at any sub-national level of government may adopt any another national language or languages as additional official working language or languages at that level

(Art. 2.8 PSP)

Article 1.05 Referendum

At the end of the six (6) year Interim Period there shall be an internationally monitored referendum, organized jointly by the Parties for the people of Southern Sudan to confirm the unit of the Sudan by voting to adopt the system of government established under the Peace Agreement or to vote for secession.

(C.f. Art. 2.5 MP)

Part Two:

Human Rights and Fundamental Freedoms

Article 2.01

Basic Principles

- (1) The fundamental human rights and freedoms enshrined in this Chapter of the Framework Constitution shall be binding on the Legislature, Executive and Judiciary at the national level, at the level of Southern Sudan and at the state regional and local levels. They shall be enforceable by courts of law as provided for in this Constitutional Framework.
- (2) Every person in Sudan, regardless of ethnic or national origin, race, colour, gender, language, religion, creed, disability, political or other opinion, social or economic status, shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter, subject to the respect for the rights and freedoms of others.

(C.f. Art. 3.01 HD)

Article 2.02

Internationally Accepted Human Rights

The Republic of the Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which Sudan is or will become a party. These treaties include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Slavery Convention of 1926, as amended, and the related Supplementary Convention, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Convention Against Apartheid in Sports, the Convention Relating to the Status of Refugees and the Related Protocol, and the African Charter on Human and People's Rights. The Republic of the Sudan should endeavor to ratify other human rights treaties which it has signed or which it may participate in developing at the international or regional level.

(Art. 1.6.1 PSP)

Article 2.03

Right to life and human dignity

- (1) Every human being has an inalienable right to life; this right shall be protected by law. No one shall be arbitrarily deprived of his or her life.
(Art. 1.6.2.1 PSP; c.f. Art. 20 Const98)
- (2) Every person has the right to physical integrity. No one shall be arbitrarily deprived of this right.
(C.f. Art. 3.02 (4) HD)
- (3) Every person has the right to the respect of the dignity inherent in a human being and to the recognition of his or her legal status.
(c.f. Art. 3.02 (5) HD; c.f. Art. 20 Const98)

Article 2.04

Prohibition of Torture

No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. (Art. 1.6.2.4 PSP)

In particular, no one shall be subject without his or her free consent to medical or scientific experimentation.

(C.f. Art. 20 Const98)

Article 2.05

Prohibition of slavery and forced labor

(1) No person shall be held in slavery. Slavery, slave trade and comparable practices are prohibited and shall be punishable by law.

(Art. 1.6.2.3 PS; c.f. Art. 20 Const98)

(2) No person shall be held in servitude or be required to perform forced labour.

(c.f. Art. 3.05 HD; c.f. Art. 20 Const98)

(3) Labor required of a member of the armed forces, labor in connection with or as a consequence of imprisonment and labor required in the case of emergency shall not be not considered as forced labor.

(c.f. Art. 3.05 HD)

Article 2.06

Right to privacy

(1) No person shall be subjected to arbitrary or unlawful interference with his or her privacy, home, correspondence, or communication, or to unlawful attacks on his or her honour and reputation.

(Art. 1.6.2.6 PSP; c.f. Art. 29 Const98)

(2) Every person has the right to the protection of the law against such interference or attacks.

Article 2.07

Right of personal liberty and security

(1) Every person shall be entitled to his or her personal liberty and security and no one shall be deprived of his or her personal liberty and security except in accordance with a procedure permitted by a legislative act. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law.

(Art. 1.6.2.2. PSP)

(2) Any person lawfully deprived of his or her liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(3) (a) Accused persons shall, save to exceptional circumstances, be separated from convicted persons and shall be subject to different treatment appropriate to their status as not-convicted persons.

(b) Accused juveniles shall be separated from adults and brought to trial as speedily as possible.

(c) No person shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

(c.f. Art. 30 Const98)

Article 2.08

Right to fair trial

- (1) Every person arrested, restricted or detained shall be informed immediately, in a language that he or she understands, of the reasons for the arrest, restriction or detention, including the nature of the charge or charges, and of the right to a lawyer or defender of his or her choice.
(Art. 1.6.2.5 (a) PSP; c.f. Art. 3.04 (2) HD)
- (2) Every person arrested, restricted or detained and not released within forty-eight hours, must be brought before a court of law or a judicial officer, which will decide upon the continuation of the arrest, restriction or detention.
(C.f. Art. 3.04 (3) HD)
- (3) Everyone has the right to a fair trial and public hearing by a competent, independent and impartial tribunal established by law. This includes, but is not restricted to:
 - (a) the right to be informed before the commencement of the trial of the nature of the offence charged in a language that he or she understands;
 - (b) the right to be presumed innocent until proved guilty according to law;
(C.f. Art. 32 Const98)
 - (c) the right to be given adequate time and facilities for the preparation of his or her defense;
 - (d) the right to defend himself or herself before the court in person or through a lawyer or defender (C.f. Art. 32 Const98); and
 - (e) the right to have without cost the assistance of an interpreter if he or she cannot understand the language used during the trial.
(c.f. Art. 3.04 HD; c.f. Art. 30, 32 Const98))
- (4) No person shall be held guilty of a criminal offence unless the act or omission for which he or she is charged constituted a criminal offence at the time the alleged act or omission took place. Any increase in punishment shall apply only to acts or omissions that take place after the change in the law.
(Art. 1.6.2.5 (d) PSP)
- (5) Punishment is personal and shall only be imposed on the person who committed the offence charged.
(C.f. Art. 3.04 (6) HD)
- (6) No one may be tried twice for the same offence.
(C.f. Art. 3.04 (7) HD)
- (7) No person shall be tried for a criminal offence otherwise than by a court or tribunal established by law in accordance with this Constitutional Framework. Extraordinary courts are prohibited. No one may be removed from the jurisdiction of a competent judge, except as provided for by law.
- (8) The law may provide for a restriction on the right to public hearing where this is necessary for the protection of the victim, the accused, the judge, the prosecutor or the witnesses or in the interest of national or public security.
(C.f. Art. 1.6.2.5 (e) PSP)

Article 2.09

Due process and Rule of Law

Every person has the right to have any legal dispute decided in a fair public hearing in a court of law. Any person claiming that his or her rights have been violated by any part of any executive branch of government established under this Constitutional

Framework shall be entitled to have recourse to a court of law, which shall render a decision within a reasonable time.

(C.f. Art. 1.6.2.5 (b) PSP; C.f. Art. 3.24 HD; c.f. Art. 34 Const98)

Article 2.10

Freedom of movement

(1) All citizens have the right to freedom of movement, including the right to move freely within Sudan, to leave and to enter Sudan. Every citizen of Sudan has the right to live at any place in Sudan.

(Art. 1.6.2.4 PSP)

(2) These freedoms may only be restricted by or on the basis of a legislative act that is necessary in a democratic and religiously pluralistic society to protect national security, public safety and interest, public health or morals or the rights and freedoms of others.

(3) A non-national of Sudan who has been legally admitted into the territory of Sudan may only be expelled from Sudan by virtue of a decision taken in accordance with the law.

(4) A non-national of Sudan may seek asylum in accordance with the law of Sudan and international agreements of which Sudan is a party.

(C.f. Art. 3.10 HD)

(C.f. Art. 23 Const98)

Article 2.11

Rights of refugees and internally displaced persons

All refugees and internally displaced persons have the right to return to their countries of origin, without risk of harassment, intimidation, persecution or discrimination.

(C.f. Art. 3.11 HD)

Article 2.12

Freedom of Thought, Conscience and Religion

(1) Every person shall have the right to freedom of thought, conscience and religion.

(Art. 1.6.2.7 PSP; c.f. Art. 24 Const98)

(2) In particular, each individual and religious group shall have the right to:

(a) enjoy freedom of religion, creed and conscience, including the right to profess them publicly and privately and to establish religious institutions (c.f. Art. 24 Const98);

(b) worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;

(c) establish and maintain appropriate charitable or humanitarian institutions;

(d) make, acquire and use to the extent necessary the articles and materials related to the rites or customs of a religion or belief;

(e) write, issue and disseminate relevant publications in relation to religion or beliefs;

(f) teach religion or beliefs in places suitable for these purposes;

- (g) solicit and receive voluntary financial and other contributions from individuals and institutions in connection with or for the promotion of religion or beliefs;
- (h) train, appoint, elect or designate by succession appropriate leaders in accordance with the requirements and standards of any religion or belief;
- (i) observe, appropriate days of rest in accordance with Article [...] of this Framework Constitution, and to celebrate holidays and ceremonies according to the precepts of his or her religion or belief; and
- (j) establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

(c.f. Art. 6.5 MP)

(3) The above rights may only be restricted by or on the basis of a legislative act that is necessary in a democratic and religiously pluralistic society to protect national security; public safety, morality or health; or the rights and freedoms of others.

(C.f. Art. 3.07 (2) HD; Art. 2.02 (3) HD)

(4) No person shall be discriminated against or accorded a by the National Government, the government of Southern Sudan, a state regional or local government or any public institution, on grounds of religion or other beliefs.

(Art. 6.2 MP; c.f. Art. 21 Const98)

(5) This provision shall be without prejudice to paragraph 1 of article 1.03 of this Constitutional Framework.

Article 2.13

Freedom of opinion and expression

(1) Every person has the right to freedom of opinion, speech and expression and to receive and disseminate information and ideas of all kinds.

(2) These freedoms may only be restricted by or on the basis of a legislative act that is necessary in a democratic and religiously pluralistic society to protect national security; public safety, morals or health; or the rights and freedoms of others.

(Art. 1.6.2.8 PSP; c.f. Art. 3.07 (2) HD; c.f. Art. 25 Const98)

Article 2.14

Freedom of assembly and association

(1) Everyone has the right to freedom of peaceful assembly, including the freedom to take part in peaceful public demonstrations.

(2) Everyone has the right to freedom of association with others, including the right to form, to join or to resign from the membership of a trade union.

(Art. 1.6.2.9 PSP; c.f. Art. 26 (1) Const98)

Article 2.15

Independence of the media

(1) Freedom and independence of the media are guaranteed by this Constitutional Framework.

(2) There shall be no censorship in Sudan.

(3) The right to the establishment of a private free press and media is guaranteed.

- (4) Freedom of press and the media may only be restricted by or on the basis of a legislative act that is necessary in a democratic and religiously pluralistic society to protect national security; public safety, morals or health; or the rights and freedoms of others. Any action taken against a journalist, reporter, editor, or owner of a press or media as a result of a publication or report must be based on this legislative act.
- (5) The National Legislature shall enact laws concerning the press and mass media, including laws for the establishment of independent media commissions, which shall deal with complaints against the media for unjustified and unreasonable infringement upon the privacy of citizens or persons resident in Sudan.
(C.f. Art. 3.08 HD)

Article 2.16

Political Associations

- (1) Every Sudanese citizen shall have the freedom to become a member of or to resign from the membership of a political party or a political association.
- (2) The establishment and operation of political parties and political associations shall be governed by legislation adopted – in accordance with this Constitutional Framework
(C.f. Art. 1.6.2.9 PSP; also Art. 3.09 HD; c.f. Art. 26 (2) Const98)

Article 2.17

Equality, freedom from discrimination

- (1) All citizens of Sudan shall have equal entitlements to the enjoyment and protection of their human rights.
(C.f. Art. 1.6.2.12 PSP)
- (2) Every person shall be equal before the law. No person shall be discriminated against on grounds of ethnic or national origin, race, color, gender, language, religion, creed, disability, political or other opinion, social or economic status.
(C.f. Art. 1.6.2.13 PSP)
- (3) The equal right of men and women in the enjoyment of all civil and political rights set forth in the International Covenant on Civil and Political Rights and all economic, social and cultural rights set forth in the International Covenant on Economic, Social and Cultural Rights shall be respected by all authorities and agencies of government at all levels.
(Art. 1.6.2.16 PSP)
- (4) Nothing in this Article shall prevent the enactment and implementation of laws aimed at overcoming social, economic or educational imbalance in the Sudanese society.
- (5) All Sudanese citizens shall have access to public services and public property on an equal basis.
(Art. 2.6.1.4 PSP; c.f. Art. 6.5 (10th star) MP; c.f. Art. 21 Const98)

Article 2.18

Family, marriage, rights of children

- (1) The family is the natural and fundamental group unit and the basis of society and shall be protected by society and the State.
(Art. 1.6.2.10 PSP; c.f. Art. 15 Const98)

- (2) The family is the custodian of morals and traditional values recognized by the community and all authorities and agencies of government at all levels shall have the duty to protect and promote the institution of the family. (c.f. Art. 15 Const98)
- (3) The right of marriage between a man and a woman of marriageable age and the right to raise a family shall be recognized, according to the applicable family laws of the persons concerned. No marriage shall be entered into without the free and full consent of the intending spouses.
(c.f. Art. 1.6.2.10 PSP)
- (4) Every child shall, without any discrimination as to ethnic or national origin, race, color, gender, language, religion, creed, disability, social or economic status, or condition of birth, have the right to such measures of protection as are required by its status as a minor, from its family, from the society and from the State.
(Art. 1.6.2.15 PSP)
Every child shall have the right to be registered after birth and shall be given a name.

Article 2.19

Nationality

Every person born to a Sudanese mother [and/or] father has an inalienable right to Sudanese nationality including the rights and obligations resulting from nationality. The National Legislature shall enact legislation on nationality and naturalisation.
(C.f. Art. 3.14 HD; c.f. Art. 22 Const98)

Article 2.20

Political Rights

- (1) Every citizen of Sudan aged 18 years and above has the right to vote in elections at the place where he or she – is a resident. Elections shall be based on free, direct, equal, secret and universal adult suffrage. The period of residence required and other matters relating to elections shall be established by legislative act consistent with this Constitutional Framework.
- (2) All Sudanese citizens have the right to take part in the conduct of public affairs at any level.
(Art. 3.15 HD; c.f. Art. 1.6.2.11 PSP)

Article 2.21

Property rights

- (1) Everyone has the right to lawfully acquire or own property either alone or in association. (c.f. Art. 28 Const98)
- (2) Property rights of persons who are not nationals of Sudan may be restricted by law.
- (3) Expropriation of private property may only be carried out by a public authority for a public purpose and as authorized by legislative act conforming to this Constitutional Framework and shall be subject to prompt payment of fair and adequate compensation.
(C.f. Art. 3.17 HD; c.f. Art. 28 Const98)

Article 2.22

Educational and cultural rights

- (1) All Sudanese citizens have the right to equal educational opportunities.
- (2) Any person or group of persons may establish and maintain private schools and other educational institutions at all levels in accordance with such conditions as may be provided by applicable legislative acts
- (3) All Sudanese citizens have the right to equal participation in cultural activities.
(C.f. Art. 3.18 HD; c.f. Art. 12 Const98 as 'directive principle')

Article 2.23

Rights of cultural and ethnic communities

Cultural or ethnic communities in Sudan have the right freely to use their languages, to observe their religion and belief, and to develop their culture. The members of ethnic communities have the right to bring up their children freely within the framework of their particular ethnic communities and cultures.
(C.f. Art. 3.16 HD; c.f. Art. 27 Const98)

Article 2.24

Rights of disabled persons

Disabled persons have the right to live with their families or with foster parents and to participate in social, creative or recreational activities. No person who is qualified shall be denied access to a profession or employment on the basis of disability.
(C.f. Art. 3.19 HD)

Article 2.25

Equality of pay

The right of equal pay for equal work is guaranteed by this Constitutional Framework.
(C.f. Art. 3.20 HD)

Article 2.26

Equal access to health care and public social services

All Sudanese citizens shall have equal access to public health care and public social services. They have the right to the enjoyment of the highest practicable standard of physical and mental health.
(C.f. Art. 3.21 HD; c.f. Art. 13 Const98 as 'directive principle')

Article 2.27

Right to a Healthy Environment

Every person has the right to an environment that is not harmful to his or her health or well-being.
(C.f. Art. 3.22 HD; c.f. Art. 13 Const98 as 'directive principle')

Article 2.28

Duties of citizens

Every citizen of Sudan has the duty to:

- (a) safeguard public funds, properties and utilities and to prevent corruption and sabotage of the national economy.
- (b) support general development and national production;
- (c) contribute to the protection of the natural environment, including wildlife;
- (d) contribute to the protection of national security and respond to national emergency calls.

(C.f. Art. 3.23 HD; see also Art. 35 Const98)

Article 2.29

Enactment of legislation to protect human rights

The National Legislature, the legislatures of Southern Sudan and of the states, shall enact laws and establish appropriate institutions to provide for the effective safeguard of the rights, freedoms and obligations referred to in this Chapter of the Constitutional Framework and in human rights agreements of which Sudan is a party.

(C.f. Art. 3.26 HD)

Part Three:

The National Legislature

Article 3.01

National Institutions during the Interim Period

During the Interim Period, the institutions at the National level shall be:

- (a) The Legislature;
 - (b) The Executive;
 - (c) The Judiciary; and
 - (d) The Institutions and Commissions specified in the Peace Agreement and in this Constitutional Framework.
- (Art. 2.1 PSP)

Article 3.02

The National Legislature

- (1) The legislative powers are vested in the National Legislature as detailed in this Constitutional Framework.
 - (2) The National Legislature may also act solely for the area outside Southern Sudan. Only members of the National Legislature elected from outside Southern Sudan shall have the right to vote in the adoption of legislation that is to have effect only outside Southern Sudan.
 - (3) The proceedings of the National Legislature shall be recorded and published.
 - (4) Laws and acts enacted by the National Legislature shall be published in the Official Journal of the State of Sudan.
- (C.f. Art. 5.4.01 HD)

Article 3.03

Organization of the National Legislature

- (1) The National Legislature shall comprise
 - (a) the National Assembly; and
 - (b) the Council of States.
 - (2) There shall be equitable representation of the people of Southern Sudan in both chambers of the National Legislature, as specified in this Constitutional Framework and in the Peace Agreement.
 - (3) The National Legislature shall be structured and operate as follows:
 - (a) There shall be an elected National Assembly.
 - (b) There shall be a Council of States comprising two representatives from each state in Sudan.
- (Art. 2.2 PSP)

Article 3.04

Elections to the National Assembly

- (1) The members of the National Assembly shall be elected through free and fair elections conducted in accordance with: this Constitutional Framework governing the Interim Period;
 - (a) the procedures established by an impartial and representative Electoral Commission; and
 - (b) electoral laws which shall be fair to all candidates and voters.
 - (2) The date or dates for the elections to the National Assembly shall be determined by the Parties signatory to the Peace Agreement, after consultations with the Electoral Commission.
- (Art. 2.2.3.3 PSP)

Article 3.05

Composition of the National Assembly pending elections

Pending the elections referred to in article 3.04, the National Assembly shall consist of members representing the Parties to the Agreement, and other forces in the North and Southern in such proportions as will promote inclusiveness and stability,

- (a) The National Congress Party (NCP) shall be represented by fifty two per cent (52%) of the members;
 - (b) the Sudan People's Liberation Movement (SPLM) shall be represented by twenty eight per cent (28%) of the members;
 - (c) other Northern political forces shall be represented by fourteen per cent (14%) of the members; and
 - (d) other Southern political forces shall be represented by six per cent (6%) of the members.
- (Art. 2.2.5 PSP)

Article 3.06(a)

Composition of the Council of States

- (1) Each of the States of Sudan shall be represented by two members on the Council of States.
- (Art. 2.2.3.2 PSP)

- (2) The members representing each State shall be appointed by the Executive of the State.

Alternative to paragraph 2

The members representing each State shall be elected through free and fair elections conducted in accordance with electoral laws enacted on the national level which shall be fair to all candidates and voters.

Article 3.06(b)

Composition of the Council of States pending elections

Pending the elections referred to in article 3.04, the Council of States shall consist of members representing each of the states, selected as follows:

(a) the National Congress Party shall appoint the members for the States outside of Southern Sudan, with due regard to inclusiveness and the stability of Sudan. [At least one-third of such members shall be members of political groups other than the National Congress Party.]

(b) the Southern Peoples Liberation Movement shall appoint the members for the States inside of Southern Sudan, with due regard to inclusiveness and the stability of Sudan. [At least one-third of such members shall be members of political groups other than the Southern Peoples Liberation Movement.]

(C.f. Art. 2.2.4 PSP)

Article 3.07

Conditions of membership of the National Assembly and of the Council of States

- (1) To be eligible for membership of the National Assembly or the Council of States a candidate shall be:
 - (a) of Sudanese nationality;
 - (b) at least twenty one years of age;
 - (c) a person of sound mind;
 - (d) a person who has not previously during the last seven years convicted of any offence punishable with more than [x] months of imprisonment;
 - (e) a person who is not currently a member in a State Assembly;
 - (f) a person who is not occupying the office of Governor of a state in Sudan;
 - (g) a person who is not a member of the Council of Ministers of any State.
- (2) A person who is a member of a State Assembly or holds the office of Governor of a state in Sudan, or who is a member of the Council of Ministers of any State shall only be eligible for nomination for membership of the National Assembly and the Council of States on condition that he or she shall resign from the aforementioned positions prior to assuming membership of the National Assembly or the Council of States.
- (3) No person shall be a member of the Council of States and the National Legislature at the same time.

(C.f. Art. 68 Const98)

Article 3.08

Lapse of membership of the National Assembly and of the Council of States; removal from office

- (1) The tenure of a member of the National Assembly or of the Council of States shall lapse upon the passing of a resolution by the National Assembly or the Council of States to that effect in accordance with the procedure previously established by the National Assembly or the Council of States, following:
 - (a) The written resignation by the member concerned, announced in the Assembly; or
 - (b) The death of the member (c.f. Art. 69 (1) (d), (e) Const98)
- (2) A member of the National Assembly or the Council of States may be removed from office for serious crimes, physical or mental incapacity, or neglect of duty in accordance with the following procedure:

- (a) Proceedings for removal of a member of the National Assembly or the Council of States may be initiated by an absolute majority of the membership of the Chamber concerned.
 - (b) The matter shall be referred to the Constitutional Court, which shall determine whether the allegations are proved and whether they constitute sufficient grounds to justify removal of the member under this paragraph.
 - (c) If the Constitutional Court determines that there are sufficient grounds to justify removal, the member may be removed by a two-thirds majority vote of the total membership of the Chamber concerned.
- (3) A vacancy in the National Assembly or the Council of States shall be filled by election to be held within a period of sixty days from the date on which the vacancy occurs. (c.f. Art. 69 (2) Const98)
- (Art. 5.4.04 (6) HD; also general international parliamentary standards)

Article 3.09

Seat of the National Assembly and of the Council of States

The National Assembly shall convene at its seat in Khartoum; however, in exceptional circumstances the Speaker may call the Assembly to convene in any other place.

The Council of States shall convene at its seat in Khartoum; however, in exceptional circumstances the President/Chairman may call the Council to convene in any other place.

(new, but c.f. Art. 2.4.1 PSP)

Article 3.10

Oath of members of the National Assembly and of the Council of States

Every member of the National Assembly and of the Council of States shall, before exercising his or her functions take the following oath before the National Assembly or the Council of States, as the case may be: [...]

Article 3.11

Term of the National Assembly and of the Council of States

- (1) The first National Assembly, selected under article 3.05, shall serve until the first national elections. Thereafter the term of the National Assembly shall be four years commencing from the date of its first convening.
- (2) The first Council of States, selected under article 3.06, shall serve until the first national elections. Thereafter term of the Council of States shall be [...] from the date of its first convening.

Article 3.12

Privileges and immunities of members of the National Assembly and of the Council of States

- (1) A member of the National Assembly or of the Council of States shall not be held responsible in criminal or civil proceedings for any speech made, vote cast or other official action taken in the National Assembly or the Council of States.

(C.f. Art. 82 Const98)

- (2) A member of the National Assembly and of the Council of States shall be immune from arrest or detention during the sessions of the National Assembly or the Council of States and while travelling to and from a meeting of the National Assembly or the Council of States. In case of a member is accused of serious crimes, the immunity of the member may be waived by a two-thirds majority vote of the total membership of the National Assembly of the Council of States, as the case may be.

(Art. 5.4.07 HD)

Article 3.13

Officers, procedures in the chambers of the National Legislature

a. The National Assembly

- (1) The National Assembly shall elect a [Speaker/President] and [X] Deputy [Speakers/Presidents] from among its members. The election of the Speaker/President and Deputy Speakers/Presidents shall be held at the first sitting. The National Assembly may appoint such other officers as it deems necessary for the performance of its functions. In electing the officers and selecting its officials, the National Assembly shall ensure that the positions are as broadly inclusive as possible of the various geographic and ethnic groups of Sudan.
- (2) The Speaker/President of the National Assembly shall preside over sittings of the Assembly, control the order of business and supervise the administrative affairs of the Assembly; and shall represent the National Assembly inside and outside Sudan. (C.f. Art. 76 (2) Const98)
- (3) The National Assembly shall select, in accordance with its regulations, the members, to preside over Committees, to lead deliberations or to perform such other functions as may be determined by the National Assembly.
- (4) The Speaker/President of the National Assembly shall, with the approval of the Assembly, appoint a Secretary General who shall not be a member of the National Assembly. The Secretary General shall be responsible for preparing for and servicing the sittings of the Assembly and for the administrative affairs of the Assembly, under the supervision of the Speaker/President. (C.f. Art. 76 (4) Const98)
- (5) The National Assembly shall adopt its own rules of procedure, which must conform to the requirements of this Constitutional Framework. The National Assembly may establish such Committees as it deems necessary for the performance of its functions. Committees of the National Assembly shall reflect the composition of the National Assembly.
- (6) The sessions of the National Assembly shall be open to the public. Upon the request of one-third of the membership of the National Assembly for the holding of a closed session on any specified matter, such a closed session shall be held if the request is approved by a two-thirds majority vote of the membership of the National Assembly in a secret vote. (C.f. Art. 80 Const98)
- (7) The quorum for a sitting of the National Assembly shall be one third of the membership of the National Assembly. If the Speaker/President of the National Assembly determines that the importance of a particular subject on the Agenda of the National Assembly requires the attendance of half of the membership of the Assembly, the quorum for consideration of that subject shall be one half of the membership of the National Assembly. (C.f. Art. 79 Const98)

- (8) Ministers of the National Government shall have the right to attend be present during the sessions of the National Assembly either chamber of the Legislature and its committees, and to make statements before the National Assembly or any of its Committees. The National Assembly may address questions to any Minister. Upon the request of the National Assembly or a Committee of the National Assembly, any minister shall appear before the Assembly or Committee and answer questions put to him or her.
- (C.f. Art. 5.4.04 and 5.4.05 HD; Art. 2.2.12 and 2.2.13 PSP; Art. 84 and 83 Const98)

b. The Council of States

- (1) The Council of States shall elect a President/Chairman and [...] Deputy Presidents/Chairmen from among its members. The election of the President/Chairman and Deputy Presidents/Chairmen shall be held at the first sitting. The Council of States may appoint such other officers as it deems necessary for the performance of its functions. In electing the officers and selecting its officials, the Council of States shall ensure that the positions are as broadly inclusive as possible of the various geographic and ethnic groups of Sudan.
- (2) The President of the Council of States will preside sittings, control the order of business and supervise the administrative affairs of the Council of States, and shall represent the Council of States inside and outside Sudan.
- (3) The Council of States shall select, in accordance with its regulations, the members, to preside over Committees, to lead deliberations or to perform such other functions as may be determined by the Council of States.
- (4) The President/Chairman of the Council of States shall, with the approval of the Council, appoint a Secretary General who shall not be a member of the Council of States. The Secretary General shall be responsible for preparing for and servicing the sittings of the Council and for the administrative affairs of the Council, under the supervision of the President/Chairman of the Council.
- (5) The Council of States shall adopt its own rules of procedure, which must conform to the requirements of this Constitutional Framework. The Council of States may establish such Committees as it deems necessary for the performance of its functions. Committees of the Council of States shall reflect the composition of the Council of States.
- (6) Sessions of the Council of States shall be open to the public. Upon the request of one-third of the membership of the Council of States for the holding of a closed session on any specified matter, such a closed session shall be held if the request is approved by a two-thirds majority vote of the membership of the Council of States in a secret vote.
- (7) The quorum for a sitting of the Council of States shall be [(x) members] [one third of the membership of the Council of States]. If the President/Chairman of the Council of States determines that the importance of a particular subject on the Agenda requires the attendance of half of the membership of the Council, the quorum for consideration of that subject shall be one half of the membership of the Council of States.
- (8) Ministers of the National Government shall have the right to attend the sessions of the Council of States and its committees, and to make statements before the Council of States or any of its Committees. The Council of States or any of its Committees may address questions to any Minister of the National Government. At the request of

the Council of States or a Committee of the Council of States, a minister shall appear before the Assembly or Committee and answer questions put to him or her.
(Art. 5.4.04 and 5.4.05; HD Art. 2.2.12 and 2.2.13 PSP)

Article 3.14

Meetings

- (1) The National Assembly shall hold its first sitting upon convocation by the President of the Republic within the thirty days following the declaration of the results of elections. The first sitting shall be presided over by the oldest of the members present. (C.f. Art. 75 (1) Const98)
- (2) The Council of States shall hold its first sitting upon convocation by the President of the Republic within thirty days following the appointment of the members of the Council. The first sitting shall be presided over by the oldest of the members present.
- (3) The National Assembly shall meet regularly according to its own rules and regulations for the conduct of business.
- (4) The Council of States shall meet regularly according to its own rules and regulations for the conduct of business.
- (5) A special session of the National Legislature or either of its houses may be convened by the President of the Republic. (C.f. Art. 75 (3) Const98)
- (6) The Speaker/President of the National Assembly shall convene a special session of the Assembly at the request of [X] members of the National Assembly.
- (7) The President/Chairman of the Council of States shall convene a special session of the Council at the request of [x] members of the Council.
(C.f. Art. 5.4.05 HD)

Article 3.15

Functions of the National Legislature

- (1) The National Legislature represents the will of the people of Sudan. It exercises the legislative functions; it controls the Executive and it approves the budget of the State of Sudan. Without prejudice to the generality of the foregoing, the National Legislature shall exercise the following functions:
 - (a) Adoption of plans, programs and policies relating to the State and the society of Sudan;
 - (b) Adoption of the constitutional amendments and laws, as provided in this constitution; (c.f. Art. 2.2.7 PSP)
 - (c) Adoption of the budget of the State of Sudan; (c.f. Art. 2.2.6 PSP)
 - (d) Adoption of bills ratifying treaties and other international agreements; (c.f. Art. 7.02 PSP)
 - (e) Monitoring the performance of the Executive;
 - (f) Adoption of resolutions on any aspect of public affairs that it may deem necessary.
(C.f. Art. 73 (1) Const98)
- (2) The allocation of resources and revenues, in accordance with the agreement on Wealth Sharing, shall require the approval of both chambers of the National Legislature. (c.f. Art. 2.2.6 PSP)

Article 3.16

Distribution of legislative competences

- (1) The National Legislature shall have exclusive legislative powers in respect of the matters set forth in Schedule A, annexed hereto.
(Art. 2.2.9 PSP)
- (2) The National Legislature shall have concurrent legislative powers in respect of the matters set forth in Schedule D, read together with Schedule F, annexed hereto.
(Art. 2.2.10 PSP)
- (3) The residual legislative powers shall be exercised in accordance with Schedule E annexed hereto.
(Art. 2.2.11 PSP)
- (4) Where the National Legislature adopts national laws on any of the matters on the above lists, it shall indicate whether such laws are to apply throughout the whole of Sudan or only outside Southern Sudan. Only members of the National Assembly elected from outside Southern Sudan shall have the right to vote on legislation that is to apply only outside Southern Sudan.
(C.f. Art. 4.02 (5) HD)
- (5) The Constitutional Court shall be competent to determine whether these conditions are met.
(C.f. Art. 2.11.3.2 (vi) PSP)
- (6) Where national legislation is currently in operation or is enacted and its source is religious or customary law, then a state, the majority of whose residents do not practice such religion or customs may:
 - (i) Either introduce legislation so as to allow or provide for institutions or practices in that region consistent with their religion or customs, or
 - (ii) Refer the law to the Council of States for it to approve by a two-thirds majority or initiate national legislation which will provide for such necessary alternative
(C.f. 3.2.4 MP)
- (7) The national institutions may adopt regulations to implement national laws adopted by the National Legislature, to the extent authorized by such laws or other applicable law.
(C.f. Schedule A PSP; Art. 4.02 (3) HD)
- (8) National laws shall be administered by the national institutions, except where a particular law entrusts administration to Southern Sudan or to the states. The linkage between the National Government and the states in the Southern Sudan shall be through the Government of Southern Sudan, subject to the provisions of this Interim National Constitution and the Southern Sudan Constitution. Southern Sudan or the states shall ensure that their administration of any national laws is effective.
(Art. 1.5.1.3 PSP)
- (9) The national institutions, the institutions of Southern Sudan, and the state institutions shall establish appropriate Joint Councils or other mechanisms to coordinate their efforts in implementing national laws.

Article 3.17

Constitutional amendments, laws and other acts of the National Legislature

(1) The President, the Council of Ministers or any [X] number of members of each chamber of the National Legislature may introduce proposals for legislation or other measures. The Council of Ministers shall be informed of any proposals that are introduced by the President or members of the National Legislature.

(C.f. Art. 5.4.06 (1) HD; c.f. Art. 87 Const98))

(2) Every proposal for a legislation or other official action shall first be considered in the Chamber of the National Legislature in which the proposal was first introduced. If approved, the proposal shall be referred to the other Chamber for its consideration and approval.

(C.f. Art. 5.4.06 (2) HD)

(3) In order for a proposal to be adopted, it must be approved by both Chambers of the National Legislature as follows:

- (a) Amendments to the National Constitution shall require the approval of three-quarters (75%) of all the members of each chamber, each chamber sitting separately. A draft amendment shall be introduced at least two months prior to it being debated in any Chamber of the National Legislature.
- (b) Amendments to the Interim National Constitution that affect the provisions of the Peace Agreement may be introduced only with the approval of both Parties signatory to the Peace Agreement.
- (c) A sixty-six and two-thirds percent (66.6%) majority in the Council of States is required to pass legislation that affects the interests of the states and
- (d) a simple majority vote of both chambers is required to pass all other legislation.

(Art. 2.2.7 PSP)

(4) Any Executive Order or other legal act by the President of the Republic shall be discussed with, and adopted by the Council of Ministers before it becomes effective.

(Art. 2.3.15 PSP)

(5) Any bill duly approved by both chambers of the National Legislature shall be sent to the President for signing it into law. Should the President approve of the draft legislation or should the President take no action within 30 days after receipt of the proposal, the proposal shall become law. If the President refuses to sign the bill within the 30-day period he or she must return it, together with a statement of reasons for rejection, to the Chairpersons of both chambers. The Bill shall become law if the National Legislature then again passes the bill with a two-thirds majority in each chamber of the National Legislature; the assent of the President shall not be required.

(Art. 2.2.8 PSP; c.f. Art. 89 Const98))

(6) To be valid, a law must conform to the provisions of this Constitutional Framework and the Peace Agreement.

(C.f. Art. 5.4.06 (5) HD)

Part Four:

The National Executive

Article 4.01 Composition

- (1) The National Executive shall consist of the Presidency and a Council of Ministers.
- (2) The Presidency shall comprise the President and the two Vice Presidents. The President and the two Vice-presidents shall exercise the functions and competences of the Presidency assigned to them under the Peace Agreement and by this Constitutional Framework. The decision-making process in the Presidency shall be based on partnership and collegiality, in order to safeguard the Peace Agreement.
- (3) Pending the election of the President and Vice Presidents under this Constitutional Framework, the person for the time being holding the office of President of the Republic of Sudan shall be the President and Commander-in-Chief of the Sudan Armed Forces [SAF]. The person for the time being holding the office of Chairman of the SPLM shall be the First Vice President and shall at the same time hold the posts of President of the Government of Southern Sudan (GOSS) and Commander-in-Chief of the Sudan People's Liberation Army (SPLA).

(Art. 2.3.1-5 PSP)

Article 4.02 Decisions of the President with the consent of the First Vice President #and through Consultation of the Presidency

- (1) In respect of the following matters, the President shall take decisions with the consent of the First Vice President, namely:
 - (a) declaration and termination of a state of emergency;
 - (b) declaration of war;
 - (c) appointments that the President is required to make according to the Peace Agreement (*specified in Appendix B1 of the Implementation Modalities of the PSP*); and
 - (d) summoning, adjourning, or proroguing the National Legislature.

(Art. 2.3.6 PSP; Implementation Modalities to PSP)

- (2) The following appointments shall be made through consultations with the presidency:
 - Appointment of the Governor of the State South Kordofan and Blue Nile
 - Appointment of Constitutional Post holders in the Government of National Unity (Ministers and State Ministers)

(Appendix B2 Implementation Modalities to PSP)

Article 4.03

Election of the President and vacancy in the office of President

- (1) The President shall be elected through direct national elections. The President-elect shall appoint two Vice Presidents, one from Southern Sudan and one from outside Southern Sudan. If the President-elect is from the North, the President shall appoint as first Vice President the person who has been elected to the position of President of the Government of Southern Sudan. If the President-elect is from Southern Sudan, he or she shall appoint the first Vice President from outside Southern Sudan. All other provisions in the Peace Agreement and in this Constitutional Framework relating to the Presidency shall continue to apply.

(Art. 2.3.7 PSP)

- (2) The position of President of the Republic shall become vacant upon the occurrence of any of the following:

- (a) The expiry of the term of office of the President;
- (b) The death of the President;
- (c) The passing of a resolution of the National Assembly declaring that the President is unable to exercise his functions due to mental disability or physical infirmity;
- (d) The removal from office of the President in accordance with the provisions of this Constitutional Framework; or
- (e) The acceptance by the National Assembly of the written resignation of the President

(C.f. Art. 42 (1) Const98)

Upon the occurrence of a vacancy in the office of the President for any of the reasons set out in paragraph 3 above the functions of the President shall be assumed by a Presidential Council consisting of the Speaker of the National Assembly, the First Vice President and the Vice President.

(Art. 2.3.8 PSP; Appendix A Implementation Modalities to PSP)

- (3) Should the post of the President fall vacant in the period before the elections under this Constitutional Framework, the Office of the President shall be filled by the nominee of the National Congress Party within two weeks. (Art. 2.3.9 PSP) If the vacancy occurs after the elections under this Constitutional Framework, the post shall be filled through presidential elections which shall be held within sixty (60) days.—(Art. 2.3.10 PSP)

- (4) The Presidential Council shall take its decision by consensus.

(Art. 2.3.8.2 PSP)

- (5) If the position of the First Vice President falls vacant prior to the elections under this Constitutional Framework, the office of the First Vice President shall be filled by the nominee of the SPLM within two weeks. If the position of First Vice President falls vacant after the elections, the President shall appoint a First Vice President in accordance with the provisions of this Constitutional Framework and the provisions of the Peace Agreement.

(Art. 2.3.11.1-2 PSP)

Article 4.04

Oath of assuming the Presidency of Sudan

Before assuming office, the President and the Vice Presidents shall each take the following oath before the National Assembly:

[Add text of oath of office]

Article 4.05

Term of office of the President and of the Vice Presidents

The term of office of the President and of a Vice President shall be five (5) years, commencing from the date of his or her assumption of office. A President and a Vice-President may be re-elected for only one additional term.

(C.f. Art. 41 Const98)

Suggest the addition of the following: "No person may serve as President or Vice President for more than two terms at any time"

Article 4.06

Competences of the President and of the Vice Presidents

- (1) The President shall be the Head of State of Sudan. (C.f. Art. 43 Const98)
- (2) In accordance with this Constitutional Framework and the Peace Agreement the President shall have the following functions:
 - (a) The President directs the international relations of Sudan. He or she directs the negotiation of treaties and other international agreements and ratifies them with the consent of the National Legislature. The President may denounce or terminate treaties or international agreements in accordance with international law; (c.f. Art. 7.02 of this draft and Art. 3.15 (1) (d) HD)
 - (b) the President [with the concurrence of the First Vice President (?)] appoints ambassadors and other representatives to foreign governments and to international organizations and diplomatic conferences and receives foreign ambassadors and representatives of international organizations; (c.f. Art. 43 (g) Const98)
 - (c) the President [with the concurrence of the First Vice President(?)] appoints and dismisses the ministers;
 - (d) the President, with the concurrence of the First Vice President, and the approval of the National Legislature declares war, provided that there shall be no derogation from the provisions of the Peace Agreement, except as may be provided therein; (Art. 2.3.14 PSP)
 - (e) the President, with concurrence of the First Vice President, with the consent of the National Assembly, declares a state of emergency, provided that there shall be no derogation from the provisions of the Peace Agreement, except as may be provided therein; (Art. 2.3.14 PSP)
 - (f) the President shall preside over the meetings of the Council of Ministers; (c.f. Art. 43 (b) Const98)
 - (g) the President signs acts of the National Legislature into law in accordance with this Constitutional Framework; (c.f. Art. 43 (e) Const98)
 - (h) the President confirms death sentences and grants pardons and clemency; (c.f. Art. 43 (f) Const98)

- (i) the President appoints officials and establishes national institutions and commissions as detailed in this Constitutional Framework.
(Art. 2.3.14 PSP; Appendix C1 of Implementation Modalities to PSP; c.f. Art. 5.2.05 HD)
- (3) The functions of the First Vice President and the Vice President are as specified in this Constitutional Framework and the Peace Agreement.
(Appendix A Implementation Modalities to PSP)
- (4) The [First?] Vice President shall be Commander-in-Chief of the Sudan Armed Forces (SAF).
(Art. 2.3.8.3 PSP)

Article 4.07

Annual report

The President shall prepare and present to the National Legislature an annual report on the state of the nation.
(C.f. Art. 5.2.06 HD)

Article 4.08

Privileges and immunities of the President and the Vice Presidents; removal from office

- (1) The President and the Vice Presidents shall enjoy immunity from criminal proceedings while they are in office, except as provided in article [...].
- (2) The President and the Vice Presidents may be removed from office for serious crimes, mental or physical incapacity, or neglect of duty.
- (3) Proceedings for the removal of the President or a Vice President may be initiated by an absolute majority of the membership of the National Assembly.
- (4) The matter shall be referred to the Constitutional Court, which shall determine whether the allegations are proved and if they constitute sufficient grounds to justify the removal of the President or Vice President, as the case may be.
- (5) If the Constitutional Court determines that there are sufficient grounds to justify removal, the President or a Vice President may be removed by a two-thirds majority vote of the total membership of the National Assembly.

(C.f. Art. 5.2.03 HD; Art. 45 Const98)

Article 4.09

Actions of the President

All decisions and actions taken by the President shall be suitably recorded and published in the Official Journal of the State of Sudan, except where the Presidency determines that public disclosure would pose a threat to national security. Such a

determination may be challenged in the Constitutional Court. The President shall not withhold any information from the Constitutional Court in connection with its consideration of the matter.

(C.f. Art. 5.2.04 HD)

Article 4.10

Council of Ministers

- (1) The President shall, within 30 days of the entry into force of the Peace Agreement, and in consultation with the First Vice President, appoint a Council of Ministers, having due regard to the need for inclusiveness and diversity in the establishment of a Government of National Unity. The Cabinet Ministers shall be accountable to the President and the National Assembly in the performance of their functions and may be removed by the President either on his or her own initiative or upon a resolution supported by two-thirds of all the members of the National Assembly.

(Art. 2.3.12 PSP)

- (2) The President, the First Vice President and the Vice President shall be members of the Council of Ministers.

(Art. 2.3.13 PSP; Appendix A Implementation Modalities to PSP)

Article 4.11

The Government of National Unity: General Principles

During the Interim Period, the Government shall be guided by the objective to include all sectors of the Sudanese society, to promote national unity, to defend national sovereignty, and to effectively implement the Peace Agreement.

(C.f. Art. 2.5.1 PSP)

Article 4.12

The Government of National Unity: Competencies

- (1) The Government of National Unity shall be responsible for the administration and functioning of the State and the formulation and implementation of national policies, in accordance with the Interim National Constitution.

(Art. 2.5.6. PSP)

- (2) The Presidency and Council of Ministers shall exercise the executive powers and competencies in respect of the matters referred to in Schedules A and D, read together with Schedules E and F, and as conferred upon them by the Peace Agreement and this Constitutional Framework.

(Art. 2.5.2 PSP)

- (5) The Government of National Unity shall take decisions related to the ongoing or future activities of the organizations of the United Nations, bilateral, national, or international governmental and non-governmental organizations (NGOs), with a view toward ensuring equitable and transparent distribution of projects, activities, and employment of persons in the whole of Sudan and, especially, the reconstruction of the war affected areas. This obligation applies to all levels of Government.

(Art. 2.5.8. PSP)

- (4) The Government of National Unity shall implement an information campaign throughout Sudan in all national languages in Sudan, in order to popularize the Peace Agreement and to foster national unity, reconciliation and mutual understanding.

(Art. 2.5.9. PSP)

Article 4.13

The Government of National Unity: Organizational aspects

- (1) Cabinet posts and portfolios in all clusters, including the National Sovereignty Ministries, shall be shared equitably and qualitatively by the two Parties to the Peace Agreement. The Parties agree to cluster the National ministries under the implementation modalities.

(Art. 2.5.3 PSP)

- (2) Prior to elections under this Framework Constitution, the seats of the National Executive shall be allocated as follows:

- (a) The National Congress Party shall be represented by fifty two per cent (52%).
- (b) The Sudanese People's Liberation Movement (SPLM) shall be represented by twenty eight per cent (28%).
- (c) Other Northern political forces shall be represented by fourteen per cent (14%).
- (d) Other Southern political forces shall be represented by six per cent (6%).

(Art. 2.5.5 PSP)

- (3) The Government of National Unity shall be responsible for establishing recruitment systems and admission policies to national universities, national institutes, and other institutions of higher education, based on fair competition and giving equal opportunity to all citizens.

(Art. 2.5.7 PSP)

- (4) Deliberations of the Council of Ministers shall be confidential; and no public disclosure shall be made of any discussion or occurrence during the sittings, except with the permission of the President.

- (5) The office of minister shall fall vacant upon the occurrence of any of the following cases:

- (a) The acceptance by the President of the Republic of the resignation of the minister.
- (b) The removal from office of the minister by a decision of the President of the Republic in accordance with [Article X] of this Constitutional Framework;
- (c) The death of the minister.

(C.f. Art. 5.3.02 HD; c.f. Art. 53 Const98)

Article 4.14

The ministers, status and functions

- (1) A Minister shall have functions and powers assigned to him or her by law or delegation. (C.f. Art. 50 (1) Const98)

- (2)(a) A Minister shall be the highest responsible authority in his or her ministry, and his or her decisions shall prevail therein. A decision or act of a minister may be amended or revoked by decision of the Council of Ministers. (C.f. Art. 50 (2) Const98)
- (b) The Minister shall be responsible for the business of his ministry and shall be accountable in that regard to the President of the Republic, the Council of Ministers and the National Assembly. (C.f. Art. 51 (1) Const98)
- (3) The President of the Republic may suspend the decision of a minister pending submission of the matter to the Council of Ministers. (C.f. Art. 50 (3) Const98)
- (4) The Ministers shall be responsible to the President/Presidency and the National Assembly for the performance of the executive, and may be removed by the President or by a resolution supported by two-thirds of all of the members of the National Assembly.
- (5) The relations between national ministers and ministers of the states shall be based on the need for co-ordination, co-operation and complementation of the roles of national authorities and the institutions of the states. (C.f. Art. 50 (4) Const98)
- (6) The President of the Republic, the Vice Presidents and their assistants or advisers, and ministers in the Council of Ministers shall not, during their tenure of office, practice any private profession or engage in any commercial business with or involving the State of Sudan or any of the states or regions of Sudan.

Article 4.15

Contest of acts of the Council of ministers or a minister

Any person aggrieved by any decision or action of the national Council of Ministers or a minister [or other official or agency of Sudan or of a state of Sudan] may contest such decision or action

- (a) before the Constitutional Court on the grounds that such decision or action is contrary to this Constitutional Framework or in violation of a constitutionally or internationally guaranteed human right or freedom
 - (b) before any other court on the grounds that such decision or action is contrary to the law or in excess of the authority conferred by the law.
- (C.f. Art. 55 Const98)

Article 4.16

Civil Service

- (1) The Government of National Unity shall ensure that the National Civil Service, especially at the senior and middle-levels, is representative of the people of Sudan as a whole. The following principles shall guide the Government in respect of its policy concerning the staffing and management of the civil service:
 - (a) redress of imbalances in the composition of the civil service with a view to achieve that the civil service is representative for the population of Sudan;

- (b) provision of training to improve the professional qualification of members of the civil service, including affirmative action and job training to achieve equitable representation of the Sudanese population in the civil service;
- (c) provision for a selection system for employment and advancement on the basis of a fair competition;
- (d) prohibition of discrimination by all levels of government against any qualified Sudanese citizen on the basis of religion, ethnicity, region, gender, or political beliefs.

(Art. 2.6.1 PSP; c.f. Art. 126 Const98)

(2) In order to implement the objectives referred to in paragraph 1 of this article, a National Civil Service Commission shall be established with the task of:

- (a) formulating policies for training and recruitment into the civil service, targeting between twenty and thirty per cent (20%-30%) of the positions, confirmed upon the outcome of the census referred to in the Constitutional Framework, for qualified persons from Southern Sudan;
- (b) ensuring that not less than twenty per cent (20%) of the middle and upper level positions in the National Civil Service (including the positions of Under Secretaries) are filled with qualified persons from the South within the first three years, and achieving twenty five per cent (25%) in five years, and the final target figure referred to in sub-paragraph 2.6.2.1 above within six years; and
- (c) reviewing, after the first three years of the beginning of the Interim Period, the progress made as a result of the policies and setting new goals and targets as necessary, taking into account the census results.

(Art. 2.6.2 PSP)

Part Five: National Capital

Article 5.01 Khartoum

- (1) Khartoum shall be the Capital of the Republic of the Sudan. The National Capital shall be a symbol of national unity that reflects the diversity of Sudan.
- (2) The Administration of the National Capital shall be representative of the people of Sudan; and during the Interim Period the two Parties to the Peace Agreement shall be adequately represented in the administration of the National Capital.
- (3) Human rights and fundamental freedoms, as specified in the Constitutional Framework as well as in the Peace Agreement, including respect for all religions, beliefs and customs, shall be guaranteed and enforced in the National Capital, as well as throughout the whole of Sudan.

(Art. 2.4.1-3 PSP)

Article 5.02 Law enforcement in Khartoum

- (1) Law enforcement agencies of the Capital shall be representative of the population of Sudan and shall be adequately trained and made sensitive to the cultural, religious and social diversity of the Sudanese population.
- (2) Without prejudice to the competency of any National Institution to promulgate laws, Judges and law enforcement agents shall, in dispensing justice and enforcing current laws in the National Capital, be guided by the following:
 - (a) Tolerance shall be the basis of co-existence between the Sudanese people of different cultures, religions and traditions.
 - (b) Behavior based on cultural practices and traditions which does not disturb public order, is not disdainful of other traditions and not in flagrant disregard of the law or disturbing public order shall be deemed in the eyes of the law as an exercise of personal freedoms.
 - (c) Personal privacy is inviolable and evidence obtained in violation of such privacy shall not be admissible in the court of law.
 - (d) The judicial discretion of courts to impose penalties on non-Muslims shall observe the long-established legal (Sharia) principle that non-Muslims are not subject to prescribed penalties, and consequently remitted penalties shall apply.
 - (e) Leniency and granting the accused the benefit of doubt are legal principles of universal application, especially in the circumstances of a poor society like the Sudan, which is just emerging from war, characterized by prevalent poverty and subject to massive displacement of people.
- (3) A special commission shall be appointed by the Presidency to ensure that the rights of non-Muslims are protected in accordance with the aforementioned

guidelines and not adversely affected by the application of Sharia Law in the Capital. The said commission shall make its observations and recommendations to the Presidency.

- (4) Additionally, a system of mechanisms of guarantees shall be established to bring the above principles into operation, which includes:
 - (a) judicial circulars to guide the courts as to how to observe the foregoing principles;
 - (b) establishment of specialized courts; and
 - (c) establishment of specialized Attorney General circuits to conduct investigations and pre-trial proceedings related to offences involving these principles.

(Art. 2.4.4.-2.4.7.3 PSP)

Part Six: National Security

Article 6.01

The National Security Council

(1) At the National level a National Security Council shall be established whose composition and functions shall be determined by the law.

(Appendix A Implementation Modalities PSP)

(2) The National Security Council shall define the new national security strategy based on the analysis of the new security threats.

(Art. 2.7.1 PSP)

Article 6.02

National Security Service

(1) The Parties to the Peace Agreement will establish a National Security Service and agree on the details of its establishment under the implementation modalities.

(2) The National Security Service shall be representative of the population of Sudan and reflect the partnership of the negotiating Parties; Southern Sudan shall be equitably represented in the National Security Service.

(3) The National Security Service shall be professional and its mandate shall be advisory and focused on information gathering and analysis.

(4) At the level of the Government of Southern Sudan and at the levels of the states, security committees shall be established; their composition and functions shall be determined by the law.

(5) The National Security Service shall function under the responsibility of the Presidency as provided by the National Security Act. This Act shall reflect the mandate of the National Security Service and the relevant rules as enshrined in the Peace Agreement and in this Constitutional Framework.

(6) All assets of the respective security organs of the two Parties shall be transferred to the National Security Service.

(Art. 2.7.2 PSP)

Part Seven

Foreign Policy

Article 7.01

General Principles concerning Foreign Policy

During the Interim Period Sudan's Foreign Policy shall serve Sudan's national interests by pursuing the following objectives:

- (a) promotion of international cooperation, especially within the United Nations and other International and Regional Organizations for the consolidation of universal peace, respect of international law and treaty obligations and the promotion of a just world economic order;
- (b) enhancement of South-South and international cooperation;
- (c) striving to achieve African and Arab integration, each within the ongoing regional plans and forums as well as promoting African and Arab Unity and Afro-Arab cooperation;
- (d) non-interference in the affairs of other states and promotion of good-neighborliness and mutual cooperation among all Sudan's neighbours;
- (e) combating international and transnational organized crimes and terrorism.

(Art. 2.9 PSP)

Article 7.02

Ratification of treaties

The President may ratify treaties and other international agreements only with the approval of a resolution enacted by a majority of both chambers of the National Legislature.

(C.f. Art. 3.15 (1)(d) HD)

Article 7.03

Effect of Treaties

Treaties guaranteeing human rights are automatically part of the law of Sudan and shall be enforced by all courts and agencies at all levels in Sudan. Other treaties become part of the law of Sudan when enacted by law.

(C.f. Art. 1.6 PSP)

Part Eight: Wealth Sharing During the Interim Period

Article 8.01: General Principles and Obligations Concerning Wealth Sharing

- (1) The guiding principles governing wealth sharing are as follows:
 - (a) The wealth of Sudan shall be shared equitably so as to enable each level of government to discharge its legal and constitutional responsibilities and duties; (Art. 1.2. WSA)
 - (b) the sharing and allocation of wealth emanating from the resources of the Sudan shall ensure that the quality of life, dignity and living conditions of all the citizens are promoted without discrimination on grounds of gender, race, religion, political affiliation, ethnicity, language, or region; (Art. 1.4. sent. 1 WSA)
 - (c) the sharing and allocation of this wealth shall be based on the premise that all parts of Sudan are entitled to development; (Art. 1.4. sent. 2 WSA)
 - (d) that revenue sharing should reflect a commitment to devolution of power and decentralization of decision-making in regard to development, service delivery and governance; (Art. 1.8. WSA)
 - (e) the development of infrastructure, human resources, sustainable economic development and the capacity to meet human needs shall be conducted within a framework of transparent and accountable government; and (Art. 1.9. WSA)
 - (f) the best known practices in the sustainable utilization and control of natural resources shall be followed. (Art. 1.10 WSA)
- (2) The National Government shall provide transfers to the Government of Southern Sudan with a view to enable Southern Sudan to:
 - (a) perform basic government functions;
 - (b) build up the civil administration; and
 - (c) rehabilitate and reconstruct/construct the social and physical infrastructure in a post-conflict Sudan.(Cf. Art. 1.3. WSA / Art. 1.5. (i)-(iii) WSA)
- (3) The National Government shall also provide transfers to Nuba Mountains, Southern Blue Nile, Abyei and other war affected areas facing serious needs to enable these areas to:
 - (a) perform basic government functions;
 - (b) establish and build civil administration and
 - (c) rehabilitate and reconstruct/construct the social and physical infrastructure in a post-conflict Sudan.(Art. 1.6. WSA)
- (4) Without prejudice to the provisions of paragraph 1 (b) and 2 above, Southern Sudan, and those areas in need of construction/reconstruction, shall be brought up to the same average level of socio-economic and public services standard as the Northern states. To achieve these objectives two special funds shall be established to be used to build up local institutional, human, and economic capacity as provided in this Part of the Constitutional Framework.

(Cf. Art. 1.7 WSA according to 3.1. of Annexure B of the Comprehensive Peace Agreement)

(5) During the Interim Period the National Government will mobilize additional national resources and external assistance to meet the objectives referred to in paragraphs (1) to (4) above.

(Cf. Art. 1.12. WSA)

(6) The National Government shall not withhold an allocation due to a state/region or the Government of Southern Sudan. Any level of Government may initiate proceedings in the Constitutional Court should any other organ or level withhold monies due to it. The National Government shall make transfers to the Government of Southern Sudan based on the principles established.

(Art. 1.14. WSA)

(7) The National Government shall assist the Government of Southern Sudan, during the pre-Interim Period, in cooperation with international organizations, to develop and implement a program for capacity enhancement in the South. The highest priority should be public finance and intergovernmental relations, including expenditure management to ensure accountability.

(Art. 1.16 WSA)

Article 8.02: Ownership of Land and Natural Resources

(1) Without prejudice to the position of the Parties with respect to ownership of land and subterranean natural resources, including resources in Southern Sudan, this Agreement is not intended to address the ownership of those resources. The Parties agree to establish a process to resolve this issue.

(Art. 2.1. WSA)

(2) Rights in land owned by the Government of Sudan shall be exercised through the appropriate or designated levels of Government.

(Art. 2.4. WSA)

(3) A process shall be instituted to progressively develop and amend the relevant laws to incorporate customary laws and practices, local heritage and international trends and practices.

(Cf. Art. 2.5. WSA)

Article 8.03: National Land Commission

(1) Without prejudice to the jurisdiction of courts, there shall be established a National Land Commission with the function to arbitrate between willing contending parties on claims over land (cf. Art. 2.6. WSA / Art. 2.6.1 WSA)

(a) A person or group of persons may bring a claim in respect of land against the relevant government entity and/or other persons or groups interested in the land; (Art. 2.6.2. WSA)

(b) the National Land Commission may at its discretion entertain such claims; (Art. 2.6.3. WSA)

- (c) the parties to the arbitration shall be bound by the decision of the National Land Commission on mutual consent and upon registration of the award in a court of law. (Art. 2.6.4. WSA)
- (2) The National Land Commission shall apply the law applicable in the locality where the land is situated or such other law as the parties to the arbitration may agree, including principles of equity.
(Art. 2.6.5. WSA)
- (3) The National Land Commission shall accept references on request from the relevant government, or in the process of resolving claims, and may make recommendations to the appropriate levels of government concerning: (cf. Art. 2.6.6. WSA)
 - (a) land reform policies; (Art. 2.6.6.1. WSA)
 - (b) recognition of customary land rights and/or law. (Art. 2.6.6.2. WSA)
- (3 bis) The National Land Commission shall
 - (a) assess appropriate land compensation, which need not be limited to monetary compensation, for applicants in the course of arbitration or in the course of a reference from a court; (Art. 2.6.7. WSA)
 - (c) advise different levels of government on how to co-ordinate policies on national land projects; (Art. 2.6.8. WSA)
 - (d) study and record land use practices in areas where natural resource exploitation occurs. (Art. 2.6.9. WSA)
- (4) The National Land Commission shall be representative and independent. The composition of the membership and terms of appointment of the National Land Commission shall be set by the legislation constituting it. The Chairperson of the National Land Commission shall be appointed by the Presidency.
(Art. 2.6.10. WSA)
- (5) The National Land Commission may conduct hearings and formulate its own rules of procedure.
(Art. 2.6.11. WSA)
- (6) The budget of the National Land Commission shall be approved by the Presidency. The National Land Commission shall be accountable to the Presidency for the due performance of its functions.
(Art. 2.6.12. WSA)

Article 8.04: Southern Sudan Land Commission

- (1) Without prejudice to the jurisdiction of courts, there shall be established a Southern Sudan Land Commission with the power to arbitrate between willing contending parties on claims over land. (cf. Art. 2.7. WSA / Art. 2.7.1. WSA)
 - (a) A person or a group of persons may make a claim in respect of land against the relevant government entity and/or other persons or groups interested in the land; (cf. Art. 2.7.2. WSA)
 - (b) the Southern Sudan Land Commission may entertain such claims at its discretion; (Art. 2.7.3. WSA)

- (c) the Parties to the arbitration shall be bound by the Southern Sudan Land Commission's decision on mutual consent and upon registration of the award in a court of law. (Art. 2.7.4. WSA)
- (2) The Southern Sudan Land Commission shall apply the law applicable in the locality where the land is situated or such other law as the Parties to the arbitration may agree, including principles of equity.
(Art. 2.7.5. WSA)
- (3) The Southern Sudan Land Commission may accept references on request from the relevant government, or in the process of resolving claims, and make recommendations to the appropriate levels of government concerning: (Art. 2.7.6. WSA)
- (a) land reform policies; (Art. 2.7.6.1. WSA)
 - (b) recognition of customary land rights and/or law; (Art. 2.7.6.2. WSA)
- (3 bis) The Southern Sudan Land Commission shall have the power to:
- (a) assess appropriate land compensation, which need not be limited to monetary compensation, for applicants in the course of arbitration or in the course of a reference from a court; (Art. 2.7.7. WSA)
 - (b) advise different levels of government on how to co-ordinate policies on land projects of the Government of Southern Sudan; (Art. 2.7.8. WSA)
 - (c) study and record land use practices in areas where natural resource exploitation occurs. (Art. 2.7.9. WSA)
- (4) The Southern Sudan Land Commission shall be representative and independent. The composition of the membership and terms of appointment of the Southern Sudan Land Commission shall be set by the legislation constituting it. The Chairperson of the Southern Sudan Land Commission shall be appointed by the President of the Government of Southern Sudan.
(Art. 2.7.10. WSA)
- (5) The Southern Sudan Land Commission may conduct hearings and formulate its own rules of procedure.
(Art. 2.7.11. WSA)
- (6) The budget of the Southern Sudan Land Commission shall be approved by the Government of Southern Sudan. The Southern Sudan Land Commission shall be accountable to the President of Southern Sudan for the due performance of its functions. (Art. 2.7.12. WSA)
- (7) The National Land Commission and the Southern Sudan Land Commission shall co-operate and co-ordinate their activities so as to use their resources efficiently. Without limiting the matters of coordination, the National Land Commission and the Southern Sudan Land Commission may agree: (Art. 2.8. WSA)
- (a) to exchange information and decisions of each Commission; (Art. 2.8. (a) WSA)
 - (b) that certain functions of the National Land Commission, including collection of data and research, may be carried out through the Southern Sudan Land Commission; (Art. 2.8. (b) WSA)

- (c) on the way in which any conflict between the findings or recommendations of each Commission may be resolved. (Art. 2.8. (c) WSA)
- (8) In the case of conflict between the findings or recommendations of the National Land Commission and the Southern Sudan Land Commission, which cannot be resolved by agreement, the two Commissions shall reconcile their positions. If the Commissions fail to reconcile, the matter shall be referred to the Constitutional Court. (Art. 2.9. WSA)

Article 8.05: Management and Development of Oil and Gas, General Principles

- (1) Management and development of oil and gas as a natural non-renewable resource shall, regardless of the contention over the ownership of land and associated natural resources in general, be governed by the following considerations and principles: (cf. Art. 3.1. WSA / Art. 3.1.8. WSA: whereas the wording “during the interim period” has been removed according to Annexure B of the Peace Agreement from Art. 3.1. WSA it is still there in Art. 3.1.8. WSA)
 - (a) Sustainability of utilization; (cf. Art. 3.1.1. WSA)
 - (b) utilization in the national interest and the public good, in the interest of the affected states/regions and in the interest of the local population in affected areas; (cf. Art. 3.1.1. (a) WSA / Art. 3.1.1. (b) WSA / Art. 3.1.1. (c) WSA)
 - (c) utilization in conformity with national environmental policies, biodiversity conservation guidelines, and cultural heritage protection principles (Art. 3.1.1. (d) WSA).
- (2) The appropriate levels of government are empowered to develop and manage, in consultation with the relevant communities, the various stages of oil production within the overall framework for the management of oil and gas development during the Interim Period. (Art. 3.1.2. WSA) They shall, in this context, develop and implement policies compatible with this Constitutional Framework which attract foreign direct investment and which reduce risks associated with uncertainties regarding the outcome of the referendum on self-determination at the end of the Interim Period. (cf. Art. 3.1.3. WSA)
- (3) All levels of government shall, in close cooperation and in conformity with the Constitutional Framework, develop a stable macro-economic environment that emphasizes stability of the oil and gas sector. (cf. Art. 3.1.4. WSA)
- (4) (a) Persons enjoying rights in land shall be consulted and their views shall duly be taken into account in respect of decisions to develop subterranean natural resources from the area in which they have rights, and shall share in the benefits of that development. (Art. 3.1.5. WSA)
 - (b) Persons enjoying rights in land are entitled to compensation on just terms arising from acquisition or development of land for the extraction of subterranean natural resources from the area in respect of which they have rights. (Art. 3.1.6. WSA)
- (5) The communities in whose areas development of subterranean natural resources occurs have the right to participate, through their respective states/regions, in the negotiation of contracts for the development of those resources. (Art. 3.1.7. WSA)

Article 8.06: National Petroleum Commission (NPC)

(1) An independent National Petroleum Commission (NPC) shall be established during the Pre-Interim Period.

(cf. Art. 3.2. first half sentence WSA)

(2) The National Petroleum Commission shall be constituted as follows: (Art. 3.3. WSA)

(a) The President of the Republic and President of the Government of Southern Sudan as Co-chairs and permanent members; (cf. Art. 3.3. (a) WSA)

(b) four (4) permanent members representing the National Government; (Art. 3.3. (b) WSA)

(c) four (4) permanent members representing the Government of Southern Sudan; and (cf. Art. 3.3. (c) WSA)

(d) not more than three (3) representatives of an oil producing State/Region in which petroleum development is being considered as non-permanent members. (Art. 3.3. (d) WSA)

(3) The National Petroleum Commission shall have the following functions: (Art. 3.4. WSA)

(a) Formulate public policies and guidelines in relation to the development and management of the oil and gas sector consistent with Article 8.05 paragraph 1 (a)-(c); (cf. 3.4.1. WSA)

(b) monitor and assess the implementation of those policies to ensure that they work in the best interests of the people of Sudan; (Art. 3.4.2. WSA)

(c) develop strategies and programs for the oil and gas sector; (cf. Art. 3.4.3. WSA)

(d) develop its internal regulations and procedures. (Art. 3.4.5. WSA)

In performing these functions the National Petroleum Commission shall include only its permanent members. (Art. 3.5.6. WSA)

(3 bis) Decisions of the the National Petroleum Commission shall be taken by consensus among its permanent members

(cf. Art. 3.2. second half sentence WSA)

(4) The National Petroleum Commission shall negotiate and approve all oil contracts for the exploration and development of oil in the Sudan, and ensure that such contracts are consistent with the principles, policies and guidelines developed by the National Petroleum Commission. (cf. Art. 3.4.4. WSA) In performing this function the National Petroleum Commission shall include its permanent members and representatives of oil producing State/Region in which contracts for the exploration and development of the petroleum are being negotiated and considered for approval.

(cf. Art. 3.5.7. WSA)

(5) In performing the functions referred to in paragraph 3 and 4 above, the National Petroleum Commission shall take into account relevant considerations, including the following: (cf. Art. 3.5. WSA)

- (a) the extent to which the contract provides benefits to local communities affected by the development; (3.5.1. WSA)
 - (b) the extent to which the views of the state/region and the affected groups are incorporated in the proposed contracts. (3.5.2. WSA)
- (6) If the National Petroleum Commission decides to approve the contract, persons holding rights in land who are aggrieved by the decision shall seek relief through arbitration or in a court of law.
(Art. 3.5.3. WSA)
- (7) If the NPC approves the contract the National Minister of Petroleum shall sign the contract on behalf of the Government of the Sudan.
(Art. 3.5.5. WSA)
- (9) If the non-permanent members of the National Petroleum Commission representing the oil producing State collectively disagree with the decision of the National Petroleum Commission to approve the contract related to their State, the National Minister of Petroleum shall not sign the contract and shall refer the matter to the Council of States. If the Council of States rejects the objection by two-thirds majority, the National Minister of Petroleum shall sign the contract. If the Council of States does not reject the objection by a two-thirds majority vote within 24 sitting days of receiving it, the Council of States shall remit the objection within that period and by a two-thirds majority vote to a mechanism established by the Council to arbitrate on the objection. The arbitration decision shall be made within six calendar months of referral to arbitration. The arbitration decision shall be binding on all parties involved.
(Art. 3.5.4. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

Article 8.07: Existing Oil Contracts

- (1) The SPLM shall appoint a specified number of representatives to have access to all existing oil contracts. The representatives shall have the right to engage technical experts. Every person granted access to the contracts shall sign an undertaking of confidentiality.
(cf. Art. 4.1. WSA)
- (2) Contracts shall not be subject to re-negotiation.
(Art. 4.2. WSA)
- (3) If contracts are deemed to have fundamental social and environmental problems the Government of Sudan shall implement necessary remedial measures.
(Art. 4.3. WSA)
- (4) "Existing oil contracts" means contracts signed before the signature of the comprehensive Peace Agreement (9. January 2005).
(cf. Art. 4.4. WSA)
- (5) Any person whose rights have been violated by oil contracts shall be entitled to compensation. Where it is established through due process that there has been

such a violation of rights, the parties to the oil contracts shall be liable to compensate the affected persons to the extent of the damage caused.
(Art. 4.5. WSA)

Article 8.08: Guiding Principles for Sharing of Oil and Gas Revenues

The sharing of the wealth emanating from oil and gas resources of Southern Sudan shall be based on the principle that the sharing of wealth from the extraction of natural resources should balance the needs for national development and reconstruction of Southern Sudan.
(Cf. Art. 5.1. WSA / Art. 5.1.1. WSA)

Article 8.09: Definitions

- (1) 'Net revenue from oil' shall mean the sum of the net revenue from: (cf. Art. 5.3. first half sentence WSA)
- (a) exports of government oil and (Art. 5.3. first half sentence (i) WSA)
 - (b) deliveries of government oil to the refineries. (Art. 5.3. second half sentence (ii) WSA)
- (2) Exports shall be valued at the actual Free on Board (FOB) export prices less the charges to deliver the oil to any export destination including pipeline and management charges. Oil delivered to the refinery shall be valued at the average FOB export prices during the last calendar month in which there was an export sale less the charges that would have been incurred to deliver the oil to any export destination including pipeline and management charges.
(Art. 5.3. second and third sentences WSA)

Article 8.10: Oil Revenue Stabilization Account

- (1) An Oil Revenue Stabilization Account shall be established from government oil net revenue derived from actual export sales above an agreed benchmark price. The benchmark price shall be established annually as part of the national budget reflecting changing economic circumstances.
(Art. 5.4. WSA)
- (2) A Future Generation Fund shall be established once national oil production reaches two (2) million barrels per day. This production criterion may, as part of the National Government's normal budget process, be reduced to one (1) million barrels per day.
(Art. 5.7. WSA)
- (3) All funds/special accounts referred to in this Agreement and future accounts shall be on-budget operations.
(Art. 5.8. WSA)

Article 8.11: Sharing of Oil Revenue

- (1) At least two per cent (2%) of oil revenue shall be allocated to the oil producing states/regions in proportion to output produced in such states/regions.
(Cf. Art. 5.5. WSA)
- (2) After the payment to the Oil Revenue Stabilization Account and to the oil producing states/regions, fifty per cent (50%) of net oil revenue derived from oil producing wells in Southern Sudan shall be allocated to the Government of Southern Sudan (GOSS) as of the beginning of the Pre-Interim Period and the remaining fifty per cent (50%) to the National Government and States in Northern Sudan.
(Art. 5.6. WSA)
- (3) For the states of Blue Nile and Kordofan/Nuba Mountains and the District of Abyei special arrangements for the sharing of oil revenue are established in the [provisions of the Peace Agreement/the Protocols/the constitutional documents] regarding those areas].

Article 8.12: Sharing of Non-Oil Revenue

- (1) The National Government shall be entitled to legislate for, raise and collect the below-listed taxes and to collect revenue from these sources: (Art. 6.1. WSA)
 - (a) National Personal Income Tax; (Art. 6.1.1. WSA)
 - (b) corporate or Business Profit Tax; (Art. 6.1.2. WSA)
 - (c) customs duties and import taxes; (Art. 6.1.3. WSA)
 - (d) sea-ports and airports revenue; (Art. 6.1.4. WSA)
 - (e) service charges; (Art. 6.1.5. WSA)
 - (f) oil revenues as set out in this Constitutional Framework; (cf. Art. 6.1.6. WSA)
 - (g) National Government Enterprises and projects; (Art. 6.1.7. WSA)
 - (h) VAT or GST or other retail taxes on goods and services; (Art. 6.1.8. WSA)
 - (i) Excise Tax; (Art. 6.1.9. WSA)
 - (j) any other tax as agreed upon in the Peace Agreement. (Art. 6.1.10. WSA)
- (2) The National Government may raise loans, including borrowing, from the Central Bank and the public.
(Cf. Art. 6.1.11. WSA)
- (3) The Government of Southern Sudan shall be entitled to revenue from the following sources and to raise and collect the below-listed taxes: (Art. 6.2. WSA)
 - (a) The National revenue allocation to the Government of Southern Sudan and States/Regions from the National Revenue Fund as set forth in Article 8.13 of the Constitutional Framework; (cf. Art. 6.2.1. WSA)
 - (b) revenue from any of the sources included on the list of state/region revenue sources referred to in paragraph 5 of this Article; (cf. Art. 6.2.2. WSA)
 - (c) the Southern Sudan Reconstruction and Development Fund (SSRDF); (Art. 6.2.3. WSA)
 - (d) oil revenues as set out in this Agreement; (Art. 6.2.4. WSA)

- (e) Southern Sudan Government Taxes, which do not encroach on the exclusive taxing powers of the National Government or which are contemplated in the Peace Agreement; (Art. 6.2.5. WSA)
 - (f) service charges of the Government of Southern Sudan; (Art. 6.2.6. WSA)
 - (g) Government of Southern Sudan taxes on enterprises and projects; (Art. 6.2.7. WSA)
 - (h) grants in aid and foreign aid; (Art. 6.2.8. WSA)
 - (i) taxes and levies on small and medium business; (Art. 6.2.9. WSA)
 - (j) Excise Taxes on goods within the region deemed to be luxury consumables; (Art. 6.2.10. WSA)
 - (k) Southern Sudan personal income tax; (Art. 6.2.11. WSA)
 - (l) any other taxes as may be decided by the Legislature of Southern Sudan in accordance with the Constitution of Southern Sudan. (cf. Art. 6.2.12. WSA)
- (4) The Government of Southern Sudan may raise loans, including borrowing, in accordance with the rules on monetary policy, banking, currency and borrowing set out in this Constitutional Framework.
(Cf. Art. 6.2.13. WSA)
- (5) The states shall be entitled to raise and collect taxes and revenue from the sources listed below: (Art. 6.3. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
- (a) State Land and property tax and royalties; (Art. 6.3.1 WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (b) service charges for state services; Art. 6.3.2. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (c) licences; (Art. 6.3.3. WSA)
 - (d) State Personal Income Tax; (Art. 6.3.4. as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (e) levies on Tourism;
 - (f) State share of oil Revenues as is set out in Article 8.11 of this Constitutional Framework; (Art. 6.3.6. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (g) Taxes on State Government projects and state nature parks; (Art. 6.3.7. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (h) stamp duties; (Art. 6.3.8. WSA)
 - (i) agricultural taxes; (Art. 6.3.9. WSA)
 - grants in aid and foreign aid secured through the National Government or directly by the GOSS; (Art. 6.3.10. WSA)
 - (j) Excise taxes; (Art. 6.3.11. WSA)
 - (k) border trade charges or levies in accordance with national legislation; (Art. 6.3.12. WSA)
 - (l) other state taxes which do not encroach on national or Southern Sudan Government taxes; (Art. 6.3.13. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (m) any other tax as may be decided upon by the legislature of the respective state. (Art. 6.3.14. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
- (6) Loans raised by States, including borrowing, in accordance with the rules on monetary policy, banking, currency and borrowing set out in this Constitutional

Framework. (Art. 6.3.15. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

Article 8.13: Equalization and allocation to the National, Southern Sudan and State/Regional levels of government in respect of revenue collected nationally

(1) All revenues collected nationally for or by the National Government shall be pooled in a National Revenue Fund (NRF) administered by the National Treasury. Such Fund shall embrace all accounts and sub-funds into which monies due to the Government are collected, reported or deposited.

(Art. 7.1. WSA)

(2) All the revenues and expenditures of the Government shall be on-budget operations and made public.

(Art. 7.2. WSA)

(3) Notwithstanding the provisions of Articles 8.11, paragraph 2, 8.13, paragraph 1 and [...], the National Government shall allocate fifty percent (50%) of the national non-oil revenue collected in Southern Sudan, as provided for herein under Article 8.12, paragraphs 1 and 2 above, to the GOSS to partially meet the development cost and other activities during the Interim Period. The Parties agree to review this arrangement, at mid-term of the Interim Period, with the view of the National Government allocating additional resources to the Government of Southern Sudan.

(Cf. Art. 7.3. WSA)

(4) The National Government and the Government of Southern Sudan shall appeal to the international and donor community to help the Government of Southern Sudan by providing post-conflict reconstruction assistance especially at the beginning of the transition.

(Cf. Art. 7.4. WSA)

The states and the Government of Southern Sudan shall retain and dispose of such other income raised and collected under their own taxing powers. (Art. 7.5. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

Article 8.14: Fiscal and Financial Allocation and Monitoring Commission (FFAMC)

(1) To ensure transparency and fairness both in regard to the allocation of nationally collected funds to the states and the Government of Southern Sudan, a Fiscal and Financial Allocation and Monitoring Commission shall be established. This Commission shall be composed of experts nominated by the various states, the Government of Southern Sudan and the National Government.

(Cf. 8.1. first and second sentences WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

- (2) The responsibilities and functions of the FFAMC shall be to: (cf. Art. 8.2. WSA)
 - (a) monitor and ensure that equalization grants from the National Revenue Fund are promptly transferred to respective levels of government; (Art. 8.2.1. WSA)
 - (b) ensure appropriate utilization and sharing of financial resources; (Art. 8.2.2. WSA)
 - (c) ensure that resources allocated to war affected areas are transferred in accordance with agreed upon formulae; and (Art. 8.2.3. WSA)
 - (d) ensure transparency and fairness in the allocation of funds to the GOSS and states according to established ratios or percentages stipulated in the Peace Agreement. (Art. 8.2.4. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
- (3) The FFAMC shall be composed of representatives from the National Government and the Government of Southern Sudan and States as follows: (Art. 8.3. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
 - (a) Three Representatives of the National Government; (Art. 8.3. (a) WSA)
 - (b) Three Representatives of the Government of Southern Sudan (GOSS); (Art. 8.3. (b) WSA)
 - (c) The Finance Ministers in all States of Sudan. (Art. 8.3. (c) as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
- (4) The Chairperson of the FFAMC shall be appointed by the Presidency. (Art. 8.4. WSA)
- (5) The FFAMC shall adopt its own rules and procedures, which shall be subject to approval by the Presidency. (Art. 8.5. WSA)

Article 8.15: Interstate Commerce

There shall be no legal impediment to interstate commerce or the flow of goods and services, capital, or labour between the states. Art. 9.1. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

Art. 8.16: Governments Liability [moved to 8.21]

Article 8.17: Division of Government Assets

There shall be a fair and equitable division of government assets. An asset shall in the first instance be allocated to the level of government responsible for the function to which the asset is related (e.g. school buildings to the level of government responsible for education). In the event of a dispute, the dispute shall be referred to a committee comprising a representative of each of the parties involved in the dispute and an expert mutually agreed by all the parties to the dispute. Its decision shall be final and binding.

(Cf. Art. 11.1. WSA as modified by Art. 3.3. of Annexure B of the Final Peace Agreement)

Article 8.18: Accounting Standards and Procedures and Fiscal Accountability

- (1) All levels of government shall comply with generally accepted accounting standards and procedures. There shall be institutions at the state/region, Government of Southern Sudan and National levels to ensure that funds are distributed according to the agreed government budget, and properly expended having regard to value for money.

(Art. 12.1. WSA)

- (2) To ensure the effective operation of such institutions, there shall be independent National and Southern Sudan Audit Chambers, which shall have responsibility for the functions referred to in paragraph 1 above. The National Audit Chamber shall set auditing standards. Appointments to the National Audit Chamber shall be made by the Presidency subject to confirmation by the National Assembly.

(Art. 12.2. WSA)

- (3) All levels of government shall hold all income and revenue received by them in public accounts and subject to public scrutiny and accountability.

(Art. 12.3. WSA)

Article 8.19: Financing Transition

- (1) The National Government shall assist, during the Pre-Interim Period to the extent that it is able, the SPLM/A in the establishment of the new transitional governments at the State level and the Government of Southern Sudan. The Government of Southern Sudan shall meet the direct costs of establishing these levels of government, with the assistance from the international community.

(Art. 13.1. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

- (2) A Joint National Transition Team shall be established to undertake the following functions: (Art. 13.2. WSA)

- (a) prepare budget estimates for the establishment of Governments at the National, Southern Sudan, and state levels as provided for by this Constitutional Framework and the Peace Agreement; (Art. 13.2.1. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)
- (b) organize and prepare relevant documents for the donor conference, including the agenda of the conference, letters of invitations and be a secretariat to the donors' conference; (Art. 13.2.2. WSA)
- (c) develop fund raising strategies, and assist in the identification of potential sources of funds necessary for a smooth and timely commencement of the Interim Period. (Art. 13.2.3. WSA)

Article 8.20: Monetary Policy, Banking and Currency

- (1) During the Interim Period there shall be a dual banking system in Sudan. An Islamic banking system shall operate in Northern Sudan and a conventional banking system shall operate in Southern Sudan. (Art. 14.1. WSA)

(2) During the Pre-Interim period, the Bank of Southern Sudan (BOSS) shall be established as a branch of Central Bank of Sudan (CBOS).

(Art. 14.2. WSA)

(3) In accordance with paragraph 2 above the CBOS shall be restructured so as to reflect the duality of the banking system in Sudan. The CBOS shall use and develop two sets of banking instruments, one Islamic and the other conventional, to regulate and supervise the implementation of a single monetary policy through:

(a) an Islamic financing window in Northern Sudan under a deputy governor of CBOS using Islamic financing instruments to implement the national monetary policy in Northern Sudan; and

(b) the Bank of Southern Sudan (BOSS), headed by a deputy governor of CBOS, to manage the conventional window using conventional financing instruments in implementing the same national monetary policy in Southern Sudan.

(Art. 14.3. WSA)

(4) The CBOS shall be responsible for the conduct of monetary policy. All banking institutions shall be subject to the rules and regulations set by the CBOS.

(Art. 14.4. WSA)

(5) It shall be the primary responsibility and mandate of the CBOS to ensure price stability, to maintain stable exchange rates, to ensure a sound banking system and to issue currency. The monetary policy shall be carried out relying primarily on market-based instruments instead of administrative allocation of credit.

(Art. 14.5. WSA)

(6) The CBOS shall be fully independent in its pursuit of monetary policy.

(Art. 14.6. WSA)

(7) The Governor of CBOS and two Deputy Governors shall be appointed by the Presidency. The Governor of CBOS shall, in consultation with the two Deputy Governors, appoint other senior officers of the Central Bank.

(Art. 14.7. WSA)

(8) During the Pre-Interim Period, an independent Board of Directors (BOD) shall be established. The BOD shall consist of nine (9) members as follows: (Art. 14.8. first sentence WSA / Art. 14.8 last half sentence WSA)

a) Governor of CBOS (Chairperson) and the two Deputy Governors ; and (Art. 14.8. (a) WSA)

b) six highly qualified Sudanese nationals to be appointed by the Presidency, taking into account the agreed formula in the Power Sharing Protocol for the institutions of the National Government (Art. 14.8. (b) WSA). Decisions of BOD on matters that may adversely affect the interest of either Party to the Peace Agreement shall be taken by consensus. The BOD shall be responsible to the Presidency on the accountability of the CBOS. (Art. 14.8. second sentence and first half of the third sentence)

(9) The CBOS shall adopt a program to issue a new currency as soon as is practical during the Interim Period. The design of the new currency shall reflect the cultural diversity of Sudan. Until a new currency has been issued with the approval of the Parties on the recommendations of the CBOS, the circulating currencies in Southern Sudan shall be recognized.

(Art. 14.9. WSA)

(10) The BOSS shall be responsible for licensing and supervising financial institutions in Southern Sudan.

(Art. 14.10 WSA)

(11) All financial institutions shall be subject to internationally recognized regulatory and prudential standards for Islamic and conventional finance, as set by the CBOS.

(Art. 14.11. WSA)

(12) All financial institutions shall be bound to implement monetary policies set by the CBOS.

(Art. 14.12. WSA)

Article 8.21: Borrowing

(1) The Government of Southern Sudan and the states may borrow money based on their respective credit worthiness. Neither the National Government nor the CBOS shall be required or expected to guarantee borrowing by sub-national governments.

(Art. 14.13. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

(2) The Government of Southern Sudan and the states may borrow money from foreign sources based on their respective credit worthiness.

(Art. 14.15. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

(3) Any debts/liabilities incurred by any level of government shall be the responsibility of that level of government.

(4) Foreign borrowing by all sub-national governments shall be done in a manner that does not undermine national macro-economic policies and shall be consistent with the objective of maintaining external financial viability. All foreign borrowing transactions by sub-national governments shall conform to the CBOS specifications.

(Art. 14.16. WSA)

Article 8.22: Reporting of financial data

The GOSS and all sub-national governments shall report financial and fiscal data to the relevant National Government bodies for statistical purposes.

(Art. 14.14. WSA)

Article 8.23: Reconstruction and Development Funds

(1) There shall be established a Southern Sudan Reconstruction and Development Fund (SSRDF) to solicit, raise and collect funds from domestic and international donors and disburse such funds for the reconstruction and rehabilitation of the infrastructure of the South, for the resettlement and reintegration of internally and externally displaced persons, and to address past imbalances in regional development and infrastructure.

(Art. 15.1. WSA)

(2) A monitoring and evaluation system shall be established to ensure accountability, transparency, efficiency, equity and fairness in the utilization of resources by the SSRDF.

(Art. 15.2. WSA)

(3) The Government of Southern Sudan shall be responsible for expenditure from the fund and shall be entitled to raise additional funds by way of donation from foreign States, international organizations, or other bodies for the purposes of the reconstruction and development of the southern states/regions. The Fund shall be transparently administered and professionally managed subject to an oversight committee appointed by the Government of Southern Sudan but having on it a representative of the National Ministry of Finance and of the National Audit Chamber.

(Art. 15.3. WSA)

Article 8.24: National Reconstruction and Development Fund (NRDF)

There shall be established by the Treasury, a National Reconstruction and Development Fund (NRDF) having the mission of developing the war affected areas and least developed areas outside Southern Sudan and a steering committee with appropriate representation from such areas. The Southern Sudan Ministry of Finance shall be represented by one member on the Steering Committee of the NRDF. A report on the income, expenditure and the projects supported by the fund shall be placed before the National Assembly and the Council of States/Regions, which shall exercise oversight over the Fund.

(Art. 15.4. WSA as modified by Art. 1.3. of Annexure B of the Final Peace Agreement)

Article 8.25: Multi-Donor Trust Funds

- (1) During the Pre-Interim Period, two Multi-Donor Trust Funds (MDTFs), one for the National Government and one for the Government of Southern Sudan, shall be established to support urgent recurrent and investment budget costs under clearly stated criteria of eligible financing components. The Trust Funds shall be operational for the Pre-Interim Period, and shall thereafter be transformed into:
- (a) one MDTF dedicated to the Southern Sudan Reconstruction and Development Fund (the "SRRDF"); and
 - (b) one MDTF dedicated to the National Reconstruction and Development Fund (the "NRDF").

(Art. 15.5. WSA)

- (2) The MDTFs shall commence immediately to support, among other things, priority areas of capacity building and institutional strengthening and quick start/impact programs identified by the Parties to the Peace Agreement.

(Art. 15.6. WSA)

- (3) Both funds shall support urgent recurrent and investment budget costs under clearly stated criteria of eligible financing components, and both shall have the right to solicit, raise and collect funds from foreign donors.

(Art. 15.7. WSA)

- (4) All trust funds shall report the flow of funds to the CBOS.

(Art. 15.8. WSA)

- (5) To ensure proper accountability for funds disbursed through the MDTFs the Parties shall cause audits to be performed on funds used within six (6) months of the close of the recipient's financial year.

(Art. 15.9. WSA)

- (6) During the Pre-Interim Period as well as the Interim Period, funds may be channeled directly to finance activities beneficial to the National Government or the GOSS, as the case may be.

(Art. 15.10. WSA)

- (7) During the Pre-Interim Period, the flow of foreign funds shall be through special accounts established in the Bank of Sudan for areas outside Southern Sudan, and for Southern Sudan in a commercial bank in Southern Sudan until the Bank of Southern Sudan is established and operational. For the Interim Period:

- (a) The flow of foreign funds for the National Fund shall be through the CBOS; and
- (b) for the Southern Fund, the foreign funds will be disbursed through a special account at the Bank of Southern Sudan designated for the Government of Southern Sudan; or through arrangements as specified in the MDTF.

(Art. 15.11. WSA)

Part Nine:

Establishment of Independent and/or National Institutions in accordance with the Peace Agreement

Article 9.01: National Electoral Commission

- (1) The National Electoral Commission shall consist of [...] members who shall be appointed by [...] for a term of [...] years. The original appointments shall be arranged so that approximately [...] of the terms expire each [...] years.

(Cf. 2.10.1.1. PSP)

- (2) The National Electoral Commission shall ensure the transparency, legitimacy, and impartiality of the elections. It shall establish rules and regulations for the conduct of national elections. It shall supervise the conduct of the election and declare the winners.

(C.f. Art. 128 Const98)

Article 9.02 : Human Rights Commission

- (1) The Human Rights Commission shall consist of [...] members who shall be appointed by [...] for a term of [...] years. The original appointments shall be arranged so that approximately [...] of the terms expire each [...] years.

(Cf. 2.10.1.2. PSP)

- (2) The Human Rights Commission shall [...].

Article 9.03: National Judicial Service Commission

The National Judicial Service Commission shall be constituted as provided in Part Ten of this Constitutional Framework. It shall perform the functions assigned to it in that Part..

(Cf. 2.10.1.3. PSP)

Article 9.04 : National Civil Service Commission

- (1) The National Civil Service Commission shall consist of [...] members appointed by [...] for a term of [...] years. The original appointments shall be arranged so that approximately [...] of the terms expire every [...] years.

(Cf. 2.10.1.4. PSP)

- (2) The National Civil Service Commission shall [...].

Article 9.05: Ad-hoc Commission to monitor and ensure accuracy, legitimacy, and transparency of the Referendum

(1) The Ad-hoc Commission to Monitor and Ensure Accuracy, Legitimacy and Transparency of the Referendum shall consist of [...]. The members shall serve until the conclusion of all matters related to the Referendum provided for in Part [...].

(Cf. 2.10.1.5. PSP)

(2) The Ad-hoc Commission shall [...].

Article 9.06: Fiscal and Financial Allocation and Monitoring Commission

The Fiscal and Financial Allocation and Monitoring Commission shall be constituted as provided in Part Eight of this Constitutional Framework. It shall perform the functions assigned to it in that Part.

(Art. 2.10.1.5. PSP)

Part Ten: The National Judiciary

Article 10.01: General Principles Concerning the Judiciary

- (1) The powers of the Judiciary shall be exercised by Courts and other tribunals. The Judiciary shall be independent and subject only to this Constitutional Framework and laws enacted in conformity with this Constitutional Framework. Each court shall have the authority to decide whether an issue is within its competence.
(Cf. Art. 2.11.1. PSP / Art. 8.1.01 (1) HD)
- (2) It is the function of all courts of law to adjudicate legal disputes by applying and interpreting the law.
(Art. 8.1.01 (2) HD)
- (3) In interpreting this Framework and any legislation, all courts of law
 - (a) shall promote the values that underlie an open and democratic society based on human dignity, equality, and freedom;
 - (b) shall apply the fundamental human rights and freedoms enshrined in this Framework; and
 - (c) shall have due regard to international law.
(Art. 8.1.01. (3) HD)
- (4) In the exercise of both their judicial and administrative functions the courts of law shall not be subject to the control or direction of any other person or authority.
(Art. 8.1.01. (4) HD)
- (5) The President of the National Supreme Court may transfer a judge of a national court from one location to another at the same level of courts of law. The transfer shall not be made on an arbitrary basis. A judge who objects to a transfer may seek a review of the transfer by the National Judicial Service Commission.
(Art. 8.1.01. (5) HD)

Article 10.02: The Courts

- (1) At the National level the Judiciary comprises: (Art. 2.11.2 PSP)
 - (a) The Constitutional Court; (Art. 2.11.2.1. PSP)
 - (b) The National Supreme Court; (Art. 2.11.2.2. PSP)
 - (c) National Courts of Appeal; and (Art. 2.11.3. PSP)
 - (d) Any other National Courts or tribunals as may be deemed necessary and established by law. (cf. Art. 2.11.4 PSP)
- (2) At the level of Southern Sudan the Judiciary comprises: (Art. 3.7.1. PSP)
 - (a) The Supreme Court of Southern Sudan (Art. 3.7.1.1. PSP)
 - (b) The Southern Sudan Courts of Appeal, and (Art. 3.7.1.2. PSP)
 - (c) Any other Southern Sudan Courts or tribunals as may be deemed necessary and established by law. (cf. Art. 3.7.1.3. PSP)
- (3) At the State level the Judiciary consists of courts as established by State law.

Article 10.03: The Constitutional Court, general principles

The Constitutional Court shall:

- (a) be independent from and any other court or tribunal in Sudan. It shall be headed by a President of the Constitutional Court, duly appointed from among the judges of the Constitutional Court by the President with the consent of the First Vice President; (cf. Art. 2.11.3.2. (i) PSP)
- (b) uphold this Constitutional Framework for the Interim Period, the Constitution of Southern Sudan, and the State Constitutions. (Art. 2.11.3.2. (ii) PSP)

Article 10.04: Jurisdiction of the Constitutional Court

- (1) The Constitutional Court shall have original jurisdiction to decide disputes that arise under this Constitutional Framework and the constitutions of the Northern States at the instance of individuals, juridical entities or of government.
(Cf. Art. 2.11.3.2. (iii) PSP)
- (2) The Constitutional Court shall adjudicate on the constitutionality of laws and set aside or strike down laws or provisions of laws that do not comply with the Constitutional Framework, the Constitution of Southern Sudan, or the relevant State constitutions.
(Art. 2.11.3.2. (iv) PSP)
- (3) The Constitutional Court shall have appellate jurisdiction on appeals against the decisions of Southern Sudan Supreme Court on the Constitution of Southern Sudan and the constitutions of Southern Sudan states.
(Art. 2.11.3.2. (v) PSP)
- (4) The Constitutional Court shall adjudicate on constitutional disputes between organs and levels of government, with respect to areas of exclusive or concurrent competencies.
(Art. 2.11.3.2. (vi) PSP; c.f. Art. 105 (2)(c) Const98)
- (5) The Constitutional Court shall protect human rights and fundamental freedoms as provided for in this Constitutional Framework.
(Art. 2.11.3.2. (vii) PSP; c.f. Art. 105 (2)(b) Const98)
- (6) The Constitutional Court shall have criminal jurisdiction over the President, the two Vice Presidents of the Republic, the Speakers/Presidents of the National Legislature, and the Justices of the National and Southern Sudan Supreme Courts.
(Art. 2.11.3.2. (viii) PSP)
- (7) The Constitutional Court shall have jurisdiction concerning all matters specifically conferred upon it by other provisions of this Constitutional Framework.
- (8) Decisions of the Constitutional Court shall be final and binding.
(Art. 2.11.3.3. PSP)

Article 10.05: Composition of the Constitutional Court

- (1) The Constitutional Court is composed of nine judges (Cf. Art. 8.2.02. (1) first sentence HD). All Justices of the Constitutional Court shall be appointed by the with the consent of the First Vice President on the recommendation of the National Judicial Service Commission, subject to approval by two-thirds majority of all the members of the Council of States, having regard to competence, credibility and the need for fair representation. (Art. 2.11.4.6. (i) PSP) At least four of the judges of the Court shall be from Southern Sudan. (Cf. Art. 8.2.02. (1) last sentence HD)
- (2) The term of office of the judges shall be the Interim Period. The retirement age for the judges of the Constitutional Court is 70 years.
(Art. 8.2.02. (2) HD)
- (3) The office of a judge of the Constitutional Court becomes vacant upon the death, resignation, removal or retirement of that judge. Vacancies shall be filled for the remainder of the unexpired term by the process provided for in paragraph 1 of this Article.
(Art. 8.2.02. (3) HD)
- (4) A judge of the Constitutional Court may be removed from office only for serious crimes, incapacity, or neglect of duty. Proceedings for removal may be initiated by a two-thirds majority of the National Judicial Service Commission (cf. Art. 2.11.4.7. second sentence PSP / Art. 8.2.02 (4) first sentence HD). The question shall be referred to the National Supreme Court whose decision shall be final and binding (Art. 8.2.02 (4) second sentence HD).
- (5) The Constitutional Court shall adopt its own rules of procedure.
(Art. 8.2.02. (6) HD)

Article 10.06: The National Supreme Court

- (1) The National Supreme Court shall:
 - (a) be a court of review and appeals in respect of any criminal or civil matter arising out of or under national laws;
 - (b) have criminal jurisdiction over the Justices of the Constitutional Court;
 - (c) review death sentences imposed by any Court in respect of matters arising out of or under national laws; and
 - (d) have such other jurisdiction as is provided for in this Constitutional Framework, in the Peace Agreement, or in any legislation enacted in accordance with this Constitutional Framework.
(Cf. Art. 2.11.4.1. (i)-(iv) PSP)
- (2) The National Supreme Court may establish panels for the purposes of considering and deciding appeals on matters requiring special expertise including commercial, personal, or labour matters.
(Art. 2.11.4.2. PSP)

Article 10.06A: Other national courts

The national courts of appeal and other national courts shall have jurisdiction over questions of national law within their respective districts. There shall be an appeal from other national courts to the courts of appeal, and from the courts of appeal to the National Supreme Court, as prescribed by law.

Article 10.07: Appointment of national judges

(1) National judges other than the Judges of the Constitutional Court shall be appointed by the President [with the consent of the First Vice President (?)] on the recommendation of the National Judicial Service Commission, with due regard to competence, integrity and the need for fair representation of all sections of Sudan.

(Cf. Art. 2.11.4.4. PSP)

(2) Southern Sudan shall be adequately represented the National Supreme Court and other national courts that are situated in the National Capital, by persons having the necessary legal qualifications, competence and integrity.

(Cf. Art. 2.11.4.6. PSP)

(3) The tenure of Judges shall not be affected by their judicial decisions. Judges may only be removed for gross misconduct, incompetence, physical and mental incapacity, or for such other reasons as may be provided by legislation enacted in accordance with this Framework Constitutional Framework. A Judge may only be removed on the recommendation of the National Judicial Service Commission.

(Art. 2.11.4.7.PSP; c.f. Art. 101 (1) Const98)

(4) The recommendation of the National Judicial Commission for the removal of a Judge shall be referred to the National Assembly. The Judge shall be removed if the recommendation is adopted by a two-thirds majority vote of the membership of the National Assembly.

Article 10.07A: Southern Sudan Courts

(1) The Constitution of Southern Sudan shall provide for a Supreme Court for Southern Sudan which shall be the highest court in the South and to which appeals may lie from Southern state courts or other Courts of Southern Sudan on matters brought under or relating to Southern state, Southern Sudan or National law, as may be determined by the Constitution of Southern Sudan.

(Art. 3.7.2. PSP)

(2) The Southern Sudan Supreme Court shall:

(a) Be the court of final judicial instance in respect of any litigation or prosecution under Southern State or Southern Sudan law, including statutory and customary law, save that any decisions arising under

- National Laws shall be subject to review and decision by the National Supreme Court;
- (b) Have original jurisdiction to decide on disputes that arise under the Constitution of Southern Sudan and the constitutions of Southern Sudan states at the instance of individuals, juridical entities or of government;
 - (c) Adjudicate on the constitutionality of laws and set aside or strike down laws or provisions of laws that contradict the Constitution of Southern Sudan or the constitutions of Southern Sudan states;
 - (d) Be a court of review and cassation in respect of any criminal or civil matter arising out or under Southern Sudan Laws;
 - (e) Have criminal jurisdiction over the President and Vice President of the Government of Southern Sudan and the Speaker of Southern Sudan Legislature;
 - (f) Review death sentences imposed by Southern Sudan courts in respect of matters arising out of or under Southern Sudan Laws;
 - (g) Have such other jurisdictions as determined by Southern Sudan Constitution, the Peace Agreement and the Law.
- (Art. 3.7.3.1-7. PSP)

(3) Judges of the Courts of Southern Sudan shall perform their functions without political interference, shall be independent, and shall administer the law without fear or favour. The provisions of the Southern Sudan Constitution and the Law shall protect their independence.

(Art. 3.7.4. PSP)

(4) The Legislature of Southern Sudan shall provide for appointments, terms of service and dismissal of Southern Sudan appointed Judges.

(Cf. Art. 3.7.5. PSP)

Article 10.07B: Jurisdiction of State Courts

State Courts shall have civil and criminal jurisdiction in respect of State, Southern Sudan, and National Laws, save that a right of appeal shall lie as provided in this Constitutional Framework. (Art. 4.6.3. PSP) In Southern Sudan there shall be a right of appeal to the Southern Sudan Court of Appeal. Elsewhere in Sudan there shall be a right of appeal to the national Court of Appeal.

Article 10.07C: Judicial Procedure

The National Legislature shall determine the civil and criminal procedures to be followed by courts at all levels in respect of litigation or prosecution under National laws in accordance with the Interim National Constitution.

Part Eleven: Armed Forces

Article 11.01: Precedence of the Peace Agreement Concerning Military Issues

The provisions of the Constitutional Framework are without prejudice to the Peace Agreement. In case of conflict between a provision of this Constitutional Framework and a provision of the Peace Agreement, the provision of the Peace Agreement shall prevail.

Article 11.02: Sudanese Armed Forces (SAF)/Sudan People's Liberation Army (SPLA)

(1) During the Interim Period the two forces, the SAF and the SPLA, shall remain separate. Both forces shall be considered and treated equally as Sudan's National Armed Forces.

(Cf. Art. 1 (b) ASA)

(2) In the context of a united Sudan, and should the result of the referendum on self-determination confirm unity, the future army of Sudan shall be composed of the SAF and the SPLA.

(Cf. Art. 1 (a) ASA)

(3) The National Armed Forces shall have no mandate for internal law and order, except during a constitutionally declared state of emergency.

(Art. 1 (d) ASA)

(4) The National Government and the Government of Southern Sudan shall implement, with the assistance of the international community, programmes for the benefit of all persons affected by the reduction, demobilization and downsizing of the forces, as agreed in the Peace Agreement.

(Cf. Art. 1 (c) ASA)

Article 11.03: Joint/ Integrated Units:

(1) Joint/Integrated Units consisting of equal numbers from the Sudanese Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA) shall be established during the Interim Period. The Joint/Integrated Units shall constitute a nucleus of a post referendum army of Sudan, should the result of the referendum confirm unity, otherwise they would be dissolved and the component parts integrated into their respective forces.

(Art. 4 ASA)

(2) Joint/Integrated Units:

(a) will be a symbol of national unity during the Interim Period;

(b) will be a symbol of sovereignty during the Interim Period;

(c) will participate in the defense of the country together with the SAF and SPLA forces; and

(d) shall be involved in the reconstruction of the country.
(Art. 4.1. (b) I, II, III, V ASA)

- (3) The size and deployment of the Joint/Integrated Units throughout the Interim Period shall be as indicated below:
- (a) Southern Sudan: twenty four thousands (24.000);
 - (b) Nuba Mountains: six thousands (6.000);
 - (c) Southern Blue Nile: six thousands (6.000);
 - (d) Khartoum: three thousands (3.000);
 - (e) Eastern Sudan.
- (Art. 4.1. (c) I-V ASA)

Article 11.04: Joint Defence Board (JDB)

- (1) A Joint Defence Board (JDB) shall be established under the Presidency. It shall be composed of the chiefs of staff of the two forces, their deputies and any number of senior officers to be agreed to by the Parties to the Peace Agreement. The JDB shall take its decisions by consensus and it shall be chaired alternately by the respective Chiefs of Staff.
(Art. 5.1 ASA)

- (2) The JDB shall perform the following functions:
- (a) co-ordination between the two forces;
 - (b) command of the Joint/ Integrated Units.
- (Art. 5.2 (a) and (b) ASA)

Article 11.05: Common Military Doctrine

The National Government shall develop a common military doctrine as a basis for the Joint/Integrated Units, as well as a basis for a post Interim Period army of the Sudan, if the referendum vote is in favor of unity. Such doctrine shall be developed within one year from the beginning of the Interim Period. During the Interim Period, the training of the SPLA (in the South), the SAF (in the North) and the joint units (in both North and South) will be based on this common doctrine.
(Art. 6 ASA)

Article 11.06: Status of Other Armed Groups in the Country

- (1) No armed group allied to either party shall be allowed to operate outside the two forces.
(Art. 7 (a) ASA)
- (2) Members of such groups who so desire and qualify shall be incorporated into the organized forces of either Party of the Peace Agreement (Army, Police, Prisons and Wildlife forces), while the rest shall be reintegrated into the civil service and civil society institutions.
(Art. 7 (b) ASA)

Part Twelve: Constitutional Review Process

Article 12.01: National Constitutional Review Commission, Composition and Primary Function

- (1) After the Peace Agreement has been signed and approved by the National Assembly and the SPLM National Liberation Council, a representative National Constitutional Review Commission shall be established.
(Cf. Art. 2.12.4. PSP / Art. 2.12.4.1-2. PSP)
- (2) The National Constitutional Review Commission shall be composed of the NCP, SPLM and representatives of such other political forces and civil society institutions as may be agreed by the Parties to the Peace Agreement. The composition of the National Constitutional Review Commission shall be reflected in the Final Peace Agreement.
(Cf. Art. 2.12.4.3. PSP)
- (3) In the event of a conflict between this Constitutional Framework and the Peace Agreement, the terms of the Peace Agreement shall prevail, to the extent of the conflict.

Article 12.02: Additional Functions of the Constitutional Review Commission

- (1) The National Constitutional Review Commission shall also prepare such other legal instruments as is required to give effect to the Peace Agreement. It shall make provision, in such legal instruments or in the Constitutional Text, for the appointment of the National Institutions referred to in [...] herein and for appropriate mechanisms to ensure the independence of those institutions.
(Cf. Art. 2.12.9. PSP)
- (2) Without prejudice to the provisions of the Peace Agreement, as a subsequent task and during the course of the six-year Interim Period, the National Constitutional Review Commission shall be responsible for organizing an inclusive Constitutional Review Process. The process must provide for political inclusiveness and public participation.
(Art. 2.12.10 PSP)
- (3) Without prejudice to the functions of the State Legislatures, the National Constitutional Review Commission shall prepare model Constitutions for the States, subject to compliance with the National Constitution and, as relevant, the Constitution of Southern Sudan.
(Art. 2.12.11 PSP)

Article 12.03: Adoption of the Constitutional Text

(1) Upon adoption by the National Assembly and the SPLM National Liberation Council, the Constitutional Text shall become the Interim National Constitution for the Sudan during the Interim Period.

(Art. 2.12.7. PSP)

(2) Pending the adoption of the Constitutional Text, the Parties agree that the legal status quo in their respective areas shall remain in force.

(Art. 2.12.8. PSP)

Article 12.04: Compatibility of the Constitution of Southern Sudan and of the States/Regions with the Interim National Constitution

The National Minister of Justice shall, with the assistance of the Attorneys-General of the levels of Government concerned, make a declaration confirming the compatibility of the constitution of Southern Sudan with the Interim National Constitution. A similar declaration shall be made regarding the compatibility of the constitutions of the States with the Interim National Constitution and, as appropriate, with the constitution of Southern Sudan. Upon such declaration, the respective constitutions shall be signed by the Heads of the appropriate levels of Government.

(Art. 2.12.12. PSP)

Part Thirteen: Referendum

Article 13.01: Self-determination for the people of Southern Sudan

(1) The people of Southern Sudan shall have the right to self-determination, *inter alia*, through a referendum to determine their future status.

(Art. 1.3. MP)

(2) At the end of the Interim Period there shall be an internationally monitored referendum, organized jointly by the National Government of Sudan and the Government of Southern Sudan either:

(a) to confirm the unity of Sudan by adopting the system of government established under the Constitutional Framework or a new Constitution, or

(b) to vote for secession.

(Art. 2.5. MP)

(3) The referendum shall be held not later than [...] before the end of the Interim Period.

(Art. 12.01. (3) HD)

Article 13.02: Referendum

(1) The referendum shall be by equal vote and secret ballot. The procedure for the referendum will be provided for by law enacted by the legislature of Southern Sudan not later than [...] years after the effective date of this Framework.¹

(Art. 12.02. (1) HD)

(2) [The legislature of Southern Sudan shall establish a Referendum Commission to conduct the referendum. It shall consist of two persons from Southern Sudan elected by the legislature of Southern Sudan, two persons from Southern Sudan appointed by the chief executive of Southern Sudan, two persons, at least one of whom must be a resident of Southern Sudan, appointed by the [President] of Sudan, and one member designated by the National Elections Commission.]

(Cf. Art. 12.02. (2) HD)

(3) To be eligible to vote in the referendum, a person must be a Sudanese citizen of at least 18 years of age and either

(a) of Southern Sudanese origin; or

(b) permanently resident in Southern Sudan for at least [...] years.

(Cf. Art. 12.02. (3) (a)-(b) HD)

(4) To ensure the free and fair conduct of the referendum, the Referendum Commission shall invite regional and international observers, including the following:

¹ One option may be to have the law on the Referendum not adopted by the National or Southern legislature, but instead by the Referendum Commission / The legislative bodies on the national and Southern Sudan level may delegate their powers to enact a Referendum law to the Referendum Commission.

- (a) the African Union;
 - (b) the Arab League;
 - (c) the United Nations;
 - (d) neighbouring countries and other countries, in particular those having assisted in the peace process;
 - (e) the Intergovernmental Authority on Development (IGAD);
 - (f) regional and international civil society organizations and institutions, particularly those having assisted in the peace process, and
 - (g) regional and international media and journalists.
- (Art. 12.02. (4) (a)-(f) and (h) HD)

- (5) The National Government of Sudan will make it possible for the observers to enter Sudan and to conduct their observations.
- (Art. 12.02. (4) last sentence HD)

- (6) The option receiving most votes of those having participated in the referendum will be binding provided that more than 50 per cent of the registered voters participate in the referendum. If less than 50 per cent of the registered voters participate in the referendum a second referendum shall be held within [...] years. The outcome of the second referendum shall be final. This Constitutional Framework will continue in force for that period.
- (Art. 12.02. (5) HD)

Article 13.03: Preparation for the Referendum

In preparation for the referendum, the Government of Southern Sudan shall, in co-operation with the National Government, provide for the registration of voters in accordance with a law enacted for that purpose.

(Art. 12.03. HD)

Part Thirteen-A: Southern Sudan

Article 13A.01: Southern Sudan

Southern Sudan shall consist of [...]

Article 13A.02: Constitution of Southern Sudan

Southern Sudan shall adopt a Constitution, which shall be in conformity with the provisions of this Constitutional Framework. The powers of the Government of Southern Sudan shall be as set forth in Schedules B and D, read together with Schedules E and F, the Interim National Constitution, Southern Sudan Constitution, and the Peace Agreement. The linkage between the National Government and the states in the Southern Sudan shall be through the Government of Southern Sudan (Cf. Art. 3.3. PSP / Art. 3.4. PSP)

Part Thirteen-B: States

Article 13B.01: States

The States of Sudan are: [list or describe]. The number and boundaries of States may be altered only by constitutional amendment. Any alteration of the boundaries of states also requires approval by the state legislatures of all of the states concerned.

Article 13B.02: State Constitutions

Each State shall adopt a Constitution which shall be in conformity with the provisions of this Constitutional Framework. The powers of the states shall be as set forth in Schedules C and D, read together with Schedules E and F.

Part Thirteen-C: Special Areas

Article 13C.01: Kordofan/Nuba Mountains, Blue Nile, and Abyei

The special arrangements for the government of Kordofan/Nuba Mountains, Blue Nile, and Abyei established in the [Peace Agreement/Protocols/other] prevail over any contrary provisions of this Interim Constitution.

Part Fourteen: Final Clause

Article 14.01: Duration

- (1) This Constitutional Framework shall be in force until the end of the Interim period.
- (2) If at the end of the Interim Period no constitutional measures have been taken to cover the period beyond the Interim Period, this Constitutional Framework shall remain in force until such constitutional measures have been taken and have entered into force.

SCHEDULE A: NATIONAL POWERS

Exclusive competencies (Legislative and Executive Powers) of the National Government.

1. National Defense and National Security, Protection of the National Borders;
2. Foreign Affairs and International Representation;
3. Nationality and Naturalization;
4. Passports and Visas;
5. Immigration and Aliens;
6. Currency, Coinage and Exchange Control;
7. Constitutional Court and such National Courts responsible for enforcing or applying national laws;
8. National Police (including Criminal Investigation Department – CID), Coordination of International, Regional and bilateral Criminal Matters, and Standards and Regulations, including the standards for training the police in the National Capital;
9. The fixing of and providing for salaries and allowances of civil and other officers of the National Government;
10. Postal Services;
11. Civil Aviation;
12. Maritime shipment;
13. Beacons;
14. Navigation and Shipment;
15. National Lands and National natural resources;
16. Central Bank, the Incorporation of National banks and issuing of currency notes;
17. Bills of Exchange and Promissory Notes;
18. Weights, Measures and Standards, Dates and Standards of Time;
19. Meteorology;
20. Establishment and Maintenance of National Prisons;
21. National Institutions as envisaged under the Peace Agreement or as set forth in the Interim National Constitution;
22. Customs, Excise and Export Duties;
23. Intellectual Property Rights, including Patents and Copyright;

24. National Flag, National Emblem and National Anthem;
25. Signing of International Treaties on behalf of the Republic of Sudan;
26. National Debt and borrowing on public credit;
27. National Census, National Surveys and National Statistics;
28. National States of Emergency;
29. International and Inter-State Transport, including roads, airports, waterways, harbours and railways;
30. National Public Utilities;
31. National Museums and National Heritage Sites;
32. National Economic Policy and Planning;
33. Nile Water Commission, the management of the Nile Waters, transboundary waters and disputes arising from the management of interstate waters between Northern states and any disputes between Northern and Southern states;
34. National information, publications, telecommunications regulations;
35. National Taxation and National Revenue Raising;
36. National Budget;
37. Laws providing for National elections and their supervision by the Electoral Commission;
38. Issuance of National ID Card.

SCHEDULE B: POWERS OF THE GOVERNMENT OF SOUTHERN SUDAN

The exclusive legislative and executive powers of the Government of Southern Sudan shall be:

1. The adoption and amendment of the Constitution of the Government of Southern Sudan (subject to compliance with the Interim National Constitution);
2. Police, Prisons and Wildlife Services;
3. Security and military forces during the Interim Period (subject to Agreement on Security Arrangements);
4. Legislation relating to the Government of Southern Sudan structures for the delivery of services at all levels of Government of Southern Sudan;

5. Borrowing of money on the sole credit of the Government of Southern Sudan within the national macro-economic policy;
6. Planning for Southern Sudan Government services including health, education, and welfare, etc;
7. The appointment, tenure and payment of Government of Southern Sudan (GOSS) officers and civil servants;
8. Development of financial resources for the Government of Southern Sudan;
9. The co-ordination of Southern Sudan services or the establishment of minimum Southern Sudan standards or the establishment of Southern Sudan uniform norms in respect of any matter or service referred to in Schedule C or Schedule D, read together with Schedule E, with the exception of Item 1 of Schedule C, including but not limited to, education, health, welfare, police (without prejudice to the National Standards and Regulations), prisons, state public services, such authority over civil and criminal laws and judicial institutions as is specified in the Schedules, lands, reformatories, personal law, intra-state business, commerce and trade, tourism, environment, agriculture, disaster intervention, fire and medical emergency services, commercial regulation, provision of electricity, water and waste management services, local Government, animal control and veterinary services, consumer protection, and any other matters referred to in the above Schedules;
10. Any power that a State or the National Government requests it to exercise on its behalf, subject to the agreement of the Government of Southern Sudan, or any power that, for reasons of efficiency, the Government of Southern Sudan itself requests to exercise in Southern Sudan and the relevant level agrees;
11. Referenda in Southern Sudan on matters affecting Southern Sudan as a whole within the competencies of Southern Sudan Government;
12. Taxation and revenue raising in Southern Sudan as a whole;
13. Southern Sudan Budget, subject to the agreement on Wealth Sharing;
14. GOSS Public utilities;
15. GOSS flag, emblem;
16. Reconstruction and development of the Southern Sudan as a whole, subject to the provisions of the Wealth Sharing Agreement;
17. GOSS information, publications, media and telecommunications utilities;

18. Rehabilitation and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes;
19. Any matter relating to an item referred to in schedule D that cannot be dealt with effectively by a single State and requires GOSS legislation or intervention including, but not limited to, the following:
 - 19.1. Matters relating to businesses, trade licenses and conditions of operation;
 - 19.2. Natural resources and forestry;
 - 19.3. Town and rural planning;
 - 19.4 Disputes arising from the management of interstate waters wholly within Southern Sudan;
 - 19.5. Fire fighting and ambulance services;
 - 19.6. GOSS reformatory institutions;
 - 19.7. Firearm licenses within Southern Sudan; and
 - 19.8. GOSS recreation and sports.
20. Such matters relating to taxation, royalties and economic planning as are specified in the Agreement on Wealth Sharing as a matter or matters in regard to which the Government of Southern Sudan is accorded exclusive authority;
21. Southern Sudan census and statistics within the competence of the Southern Sudan Government;
22. Issuance of identity cards, driving licenses and other appropriate documentation within Southern Sudan..

SCHEDULE C: POWERS OF STATES

Exclusive executive and legislative competencies of the individual States of Sudan shall be as set out hereunder:

1. The Constitution of the State, subject to compliance with the National Constitution, and, as relevant, the Constitution of Southern Sudan;
2. State Police, prisons;
3. Local Government;
4. State information, state publications and state media;
5. Social Welfare including State pensions;
6. The Civil Service at the State level;

7. The State Judiciary and administration of justice at State level, including maintenance and organization of State Courts and, subject to national norms and standards, civil and criminal procedure;
8. State Land and State Natural Resources;
9. Cultural matters within the State;
10. Regulation of religious matters, subject to the National Constitution and the Peace Agreement;
11. Internal and external borrowing of money on the sole credit of the State, within the National macro-economic framework;
12. The establishment, tenure, appointment, and payment of State officers;
13. The management, lease and utilization of lands belonging to the State;
14. The establishment, maintenance and management of reformatory institutions;
15. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
16. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the State;
17. Local works and undertakings;
18. Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
19. Enforcement of State laws;
20. Statutes enacted under the Penal Law power, save for the penalization for the breach of National laws relating to the national competencies;
21. The development, conservation and management of State natural resources and State forestry resources;
22. Primary and secondary schools and education administration in regard thereto;
23. Laws in relation to Agriculture within the State;
24. Airstrips other than international and national airports within civil aviation regulations;
25. Intrastate public transport and roads;
26. Population policy and family planning;
27. Pollution control;
28. State statistics, and State surveys;
29. State referenda;
30. Charities and endowment;

31. Quarrying regulations, subject to the Agreement on Wealth Sharing;
32. Town and country ~~rural~~ planning;
33. State cultural and heritage sites, State libraries, State museums, and other historical sites;
34. Traditional and customary law;
35. State finances;
36. State irrigation and embankments;
37. State Budget;
38. State archives, antiquities, and monuments;
39. Direct and indirect taxation within the State in order to raise revenue for the State;
40. State public utilities;
41. Vehicle licensing;
42. Fire fighting and ambulance services;
43. Recreation and sport within the State;
44. Firearms Licenses;
45. Flag and emblem.

SCHEDULE D: CONCURRENT POWERS

The National Government, the Government of Southern Sudan and State Governments, shall have concurrent legislative and executive competencies on any of the matters listed below during the Interim Period:

1. Economic and Social Development in Southern Sudan;
2. Legal and other professions and their associations;
3. Tertiary education, education policy and scientific research;
4. Health policy;
5. Urban development, planning and housing;
6. Trade, commerce, Industry and industrial development;
7. Delivery of public services;
8. Banking and insurance;
9. Bankruptcy and insolvency;

10. Manufacturing licenses;
11. Airports only with respect to the GOSS in accordance with Civil Aviation standards and regulations;
12. River transport;
13. Disaster preparedness, management and relief and epidemics control;
14. Traffic regulations;
15. Electricity generation and water and waste management;
16. Information, Publications, Media, Broadcasting and Telecommunications;
17. Environmental management, conservation and protection;
18. Relief, Repatriation, Resettlement, Rehabilitation and Reconstruction;
19. Without prejudice to the National Regulation, and in the case of Southern States, the regulation of Southern Sudan Government, the initiation, negotiation and conclusion of International and Regional Agreements on culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;
20. Financial and economic policies and planning;
21. Women's empowerment;
22. Gender policy;
23. Animal and livestock control, animal diseases, pastures and veterinary services;
24. Consumer safety and protection;
25. Residual powers, subject to schedule E;
26. Mother, Child protection and care;
27. Water Resources other than interstate waters;
28. Notwithstanding Schedules A, B and C, such matters relating to taxation, royalties and economic planning as specified in the Agreement on Wealth Sharing;
29. Southern Sudan and State Courts responsible for enforcing or applying National laws;
30. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing as a matter or matters in regard to which the Government of Southern Sudan is accorded concurrent authority;
31. Human and animal drug quality control.

SCHEDULE E: RESIDUAL POWERS

The residual powers shall be dealt with according to their nature (e.g., if the power pertains to a national matter, requires a national standard or is a matter which cannot be regulated by a single state, it shall be exercised by the National Government. If the power pertains to a matter that is usually exercised by the state or local government, it shall be exercised by the state). Where a matter is susceptible to Southern Sudan regulation, in respect of the states of Southern Sudan, it shall be exercised by the Government of Southern Sudan.

SCHEDULE F: RESOLUTION OF CONFLICTS IN RESPECT OF CONCURRENT POWERS

If there is a conflict between the provisions of Southern Sudan law and/or a State law and/or a National law, on the matters referred in Schedule D, the provision that shall prevail shall be the provision of the law of the level of government which most effectively deals with the subject matter of the law, having regard to:

1. The need to recognize the sovereignty of the Nation while accommodating the autonomy of Southern Sudan or of the States;
2. Whether there is a need for National or Southern Sudan norms and standards;
3. The principle of subsidiarity according to which issues are to be dealt with at the levels to which they most directly relate;
4. The need to promote the welfare of the people and to protect each person's human rights and fundamental freedoms.

(Schedule A-F PSP)

