global witness

TURNING THE TIDE

Building a clean oil sector through South Sudan's Peace Agreement

CONTENTS

EXECUTIVE SUMMARY

The corruption of the South Sudanese political and military elite lies at the heart of the country's continued conflict. As the nation's main source of prosperity, oil revenues had the potential to get the world's newest economy moving, and to provide the development its citizens had been denied by 30 years of civil war. Instead, mismanagement and looting have stoked the acute grievances fuelling the ongoing conflict: a conflict destroying the lives of South Sudanese citizens and derailing their prospects for a better future.

If the Peace Agreement signed in Addis Ababa on August 27 is to deliver a sustainable peace to the country, the Transitional Government must fundamentally overhaul the way the state is run—including, critically, how oil dollars are collected, accounted for and spent. The Agreement recognises this. It does not represent a simple truce between two warring parties. It is a 30 month reform program which seeks to create a transparent and accountable South Sudanese state by 2018.

If a transparent state is to emerge, the processes which create it must themselves be transparent. There must be an ongoing flow of information between citizens and state to demonstrate that the country's leaders are not just paying lip service to reforms, but are making them a reality, and to ensure popular ownership of the deal and the state it creates. The institutions set up to oversee the reform process must also be privy to the same information as the Government if they are to serve as the watchdog the process needs. This will also assure the international community financing the Agreement's implementation that agreed deadlines are being met.

The Agreement is ambitious and broad. There are eight chapters which cover a range of issues, from the establishment of a Transitional Government and ceasefire, through to transitional justice and humanitarian assistance. Chapter IV addresses resource, economic and financial management reform, including a much needed overhaul of the oil sector.

Of the twenty eight provisions relating to oil management there are some which are foundational and will act as building blocks for the successful implementation of others. As a result, they should be prioritised by both the Transitional Government and international guarantors of the Agreement. These are:

- (4.1.1) Implementation of the Petroleum Revenue Management Act;
- (4.1.2) The closure of any petroleum revenue accounts other than those approved by the law;
- (4.1.3) The identification, checking and recording of all loans and contracts collateralised or guaranteed against oil;
- (4.1.7) The oil marketing system, including future sales, shall be open, transparent and competitive;
- (4.1.13.14) The review and transformation of the national oil company, Nilepet.

Sustainable political reform and efforts to curb corruption will also require the application of the following fundamental principles throughout the transitional period and beyond:

- Engagement of a broad range of actors beyond the Transitional Government, including oil operating companies, international oil traders, commercial banks, and ex-public officials;
- Empowerment and protection of democracy supporting groups, including civil society, parliamentarians, and the press so as to allow them to monitor and participate in the implementation of the Agreement;
- A moratorium on new contracts in the oil sector until laws governing this process are fully implemented;[1]
- Consistent and specific definitions of what success looks like for each of the Agreement's provisions.

This brief will set out the circumstances which have allowed corruption to flourish and to become a driver of conflict in South Sudan; establish why breaking these trends is critical to the Peace Agreement's success and sustainability; and make recommendations as to how its resource governance provisions should be sequenced and prioritised.

CORRUPTION, CONFLICT, AND THE FAILURE OF THE STATE

Corruption and the mismanagement of oil revenues has been a driver of South Sudan's return to conflict and has undermined democratic state building.

Mismanagement of the oil industry has played a central role in engendering some of the grievances which underpin the current conflict. At independence, the industry provided as much as 98% of government income. In the 2014 budget, over 70% of government revenue was to be raised from oil sales.[2] As one of the most oil dependent countries in the world, this resource sits at the heart of South Sudan's political economy, and occupies a significant place in the national psyche.

Ordinary South Sudanese, particularly in the oil producing areas, complain that they have seen little benefit from the country's oil wealth, the dividends instead falling to local officials and the central Government in Juba.[3] The country has earned approximately $7.3 billion in oil revenues from independence in 2011 to the end of 2014.[4] Yet poverty levels have actually worsened, rising from 44.7% in 2011 to 57.2% in 2015.[5] In a country the same size as France, 98% of the road network remains unpaved leaving huge swathes of the countryside inaccessible during the rainy season.[6] With so little evidence of their country's oil wealth available for citizens to see, many South Sudanese believe their public officials to be guilty of corruption.[7]

Accusations of theft and looting by government officials have sharpened divides among an already fractured governing party and military. In 2012, President Salva Kiir wrote to 75 South Sudanese officials, accusing them of stealing $4 billion from state coffers and offering amnesty to those who returned looted funds.[8]

The Presidency's use of oil revenues to maintain loyalty among the divided and heavily militarised elite has also been corrosive for the development of democracy.[9] South Sudan's military has 745 generals—more than the US and second only to Russia—each of whom has a generous salary, body guard, vehicles and a house.[10] This has meant that control of oil revenue has become a means to control the army and, by extension, the state.

The Government's misuse of oil revenue to fund patronage networks and the conflict has left the economy in an extremely precarious position. It is unclear how the government plans to fund the recently passed budget for 2015/16. In the past, the Government has sold oil before it is pumped out of the ground in exchange for advance payments. According to the Ministry of Finance, the Government owed $200 million worth of oil to buyers of such advance sales as of March 2015.[11] This kind of borrowing is high risk, especially when debt is used to finance conflict. Oil production must go to companies in order to pay off debts, leaving the Government with little to fund the budget and so pushing it towards a dangerous cycle of debt. Despite the use of public assets, the full extent of this debt, and the associated repayment terms, have not been made public. We don't know what price was paid for the oil, on what terms the cargoes are to be delivered, or what the Government has done with the cash.

WHAT NEEDS TO HAPPEN TO ALLEVIATE THE PROBLEM?

Bucking these trends is central to securing a lasting peace. If business as usual continues under the Transitional Government, a return to conflict is likely.

South Sudan will be an extremely fragile state for the foreseeable future. If the Transitional Government fails to produce the necessary reforms and to create an inclusive form of governance, a return to war will be a serious risk throughout this period and beyond. The Peace Agreement recognises this, and so does not just represent a truce between two warring parties. It calls for a comprehensive overhaul of how the state has been run in the years since independence in an effort to address the root causes of the conflict. Corruption and mismanagement of South Sudan's natural resources are among the most important of these.

Transparency must be a central principle of the transitional period and in the implementation of the Agreement

Public confidence in the South Sudanese Government and its institutions is low. Many promises have been made, and just as many have been broken. Transparency throughout the implementation of the Agreement will therefore be critical. For most, it will not be enough for the Transitional Government to say that they are undertaking reforms—they will have to consistently demonstrate progress and their commitment in order to rebuild public trust and confidence in the state and its institutions.

For the wider citizenry, broad public reporting on progress towards reforms and, where appropriate, physical evidence that goals have been achieved will ensure an inclusive process with room for wide public participation and ownership. There should be regular public announcements on progress towards key reforms, and dissemination of this information through newspapers and local radio.

A commitment to transparency will also ensure that that there is no information deficit between the Transitional Government and other interested parties. This will be especially important for those with an oversight role to play, including South Sudanese civil society and the Joint Monitoring and Evaluation Commission (JMEC) established by the Agreement.

Transparency also has the potential to reduce suspicion and rebuild trust between the current leadership and SPLA-IO officials who will need work together in the Transitional Government. Equal access to information can help to create a level playing field on which mutual cooperation can be built.

Prioritisation will be critical

Past experience in South Sudan and other post-conflict societies suggests that the comprehensive implementation of Peace Agreements can be as challenging as the negotiations that produce them. The Agreement signed on August 27 is wide ranging and ambitious. As a result, prioritisation and careful sequencing of some reforms will be necessary. Where reform of the oil sector is concerned, there are foundational provisions which must be implemented first in order that the reforms which follow are meaningful and effective. These foundational provisions must also be viewed by the international guarantors of the deal as lines in the sand—if they are not met, corrective measures should be issued.

HOW WILL IMPLEMENTATION OF REFORMS BE MONITORED?

The implementation of the Agreement must be monitored and owned by all parts of South Sudanese society if it is to be successful, including MPs, civil society activists, academics, church groups and others.

However, formal oversight will be undertaken by a number of bodies created by the Agreement. Where oil and anti-corruption mechanisms are concerned, the Economic and Financial Management Authority (EFMA) will take the lead. EFMA will report to the Joint Monitoring and Evaluation Committee (JMEC) who, in turn, have a responsibility to report to the Transitional Government and relevant international bodies: the United Nations Security Council (UNSC), the African Union (AU), and the Intergovernmental Authority on Development (IGAD).[12]

JMEC's mandate, as defined by the Peace Agreement, is broad and covers the monitoring and oversight of the implementation of the Agreement. If it is to fulfil this mandate, ensuring that it has sufficient information to accurately monitor the progress and activities of the Transitional Government will be critical. JMEC should ensure that they receive regular detailed reports from the Transitional Government on progress towards the reforms set out in the Agreement. This body should also be responsible for overseeing public reporting against these benchmarks.

The Petroleum Revenue Management Act requires that payment disclosures by companies and government are made to an independent third party. JMEC should ensure that it is able to act as this independent third party.[13]

Should JMEC's monitoring find non-implementation or serious deficiencies in the implementation of the Agreement by the Transitional Government, the body can recommend corrective measures[14] to the both the Government and the international bodies. Beyond its regular quarterly reports, the Chair of JMEC also has independant mandate to report on an ad hoc basis and recommend remedial action for serious issues which arise during implementation.[15]

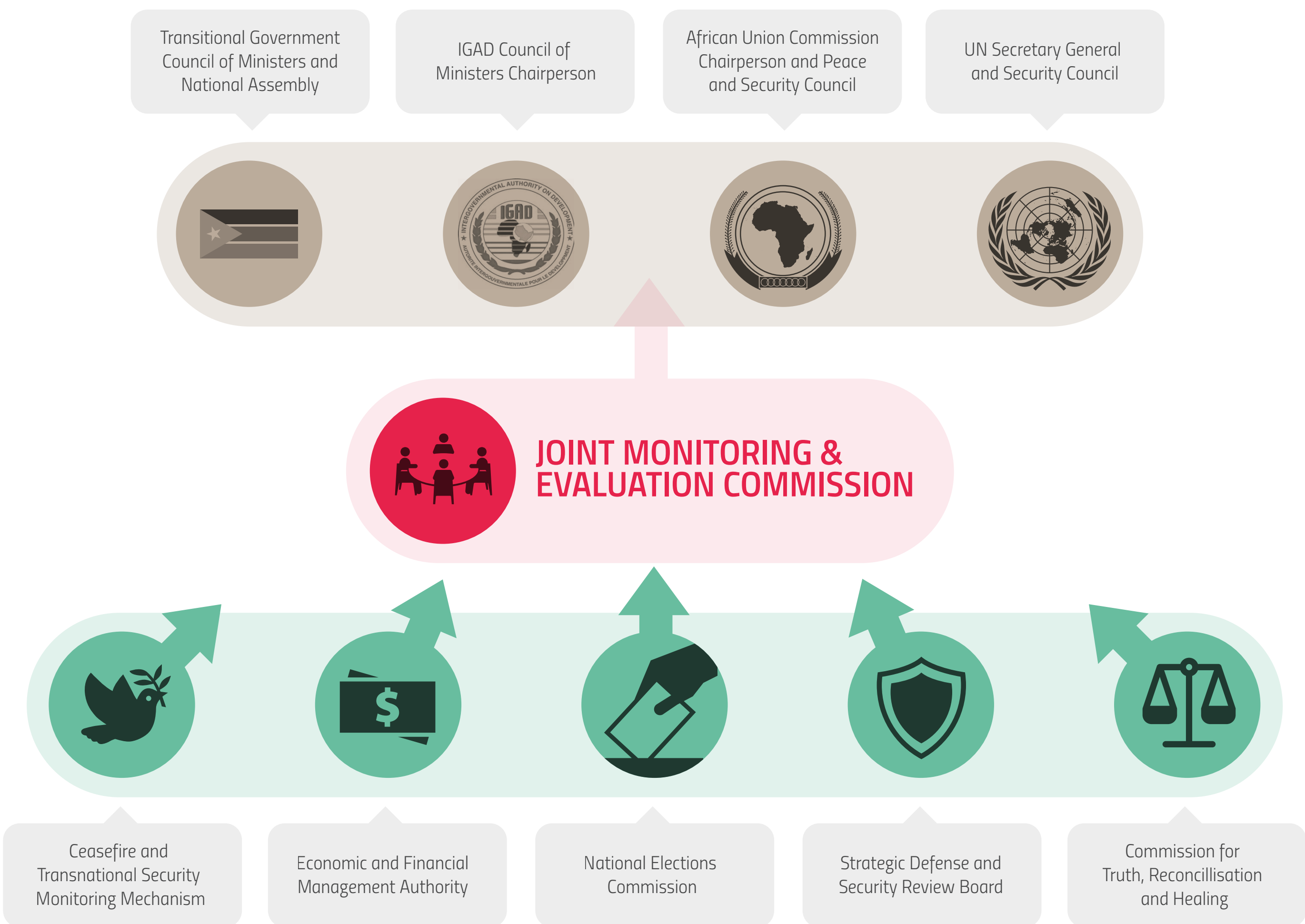
WHICH OIL-RELATED PROVISIONS IN THE PEACE AGREEMENT SHOULD BE PRIORITISED?

Chapter IV, section 4.1.2. The closure of any petroleum revenue accounts other than those approved by the law

When is the deadline for this provision to be implemented? **3 months after the start of the transitional period—25th February 2016**

Why is this important?
The inclusion of this provision in the Agreement reflects the pervasive suspicion, among both South Sudanese and the international community, that the legally mandated accounting procedures for handling oil revenues have not been followed since independence, and that oil revenues have not been directed into one single account as required by South Sudanese law.[16] Accusations abound that money has instead been redirected to accounts personally controlled by political elites, or has been used for off budget defence spending without the assent of the Parliament. These suspicions have served to undermine public trust in the Government's accounting of oil revenues, and to convince many that democratic decision making does not play a part in how oil money is spent. Critically, the transparency requirements in both the Petroleum Revenue Management Act[17] and the Agreement[18] are only meaningful if all revenues

FIGURE 1. REPORTING STRUCTURES



are directed into the relevant account, namely the Petroleum Revenue Account held at the Bank of South Sudan.

Who are the key actors?

The Agreement states that responsibility for closing down all other accounts rests with the Transitional Government—namely the Minister of Petroleum and the Minister of Finance. The Bank of South Sudan is also named in the Agreement as a responsible party in its capacity as the holder of the official Petroleum Revenue Account, and the regulator of all other commercial banks operating in the country.

Oil companies—both operators and traders—also have a critical role to play. They must ensure that they are making payments into the legally mandated account, controlled by the Ministry of Petroleum and the Bank of South Sudan.

Recommendations for implementation

To the Transitional Government:

— The Transitional Government should report publicly on or before the 25th of February 2016 to confirm that all petroleum revenue accounts other than the legally mandated Petroleum Revenue Account have been closed.

— The Transitional Government should publicly disclose details of any other illicit accounts that have been identified and closed on or before the 25th of February 2016.

To the operating and trading companies:

— The operating and trading companies should report to JMEC, as an independent third party, on the amounts they pay to the Transitional Government, and provide evidence of which accounts these amounts have been paid into.

THE COMPANIES AND THE PAYMENTS

South Sudan's oil sector currently has three oil producing projects run by three separate "joint operating companies" (JOC) which oversee the day to day operations of the oil fields. A joint operating company is a group of companies who agree to share profit, loss and control of an oil project, normally in a situation where the costs are too big for a company to bear on its own. In South Sudan, each individual company holds shares in the JOC.

— Dar Petroleum runs the fields in block 3 and 7.
  - CNPC- China- 41%
  - Petronas- Malaysia- 40%
  - Nilepet- South Sudan- 8%
  - Sinopec- China- 6%
  - Egypt Kuwait Holding- Kuwait- 3.6%
  - Tri-Ocean- Egypt- 1.4%

— Greater Nile Petroleum JOC runs the fields in blocks 1, 2 and 4.
  - CNPC- China- 40%
  - Petronas- Malaysia- 30%
  - ONGC- India- 25%
  - Nilepet- South Sudan- 5%

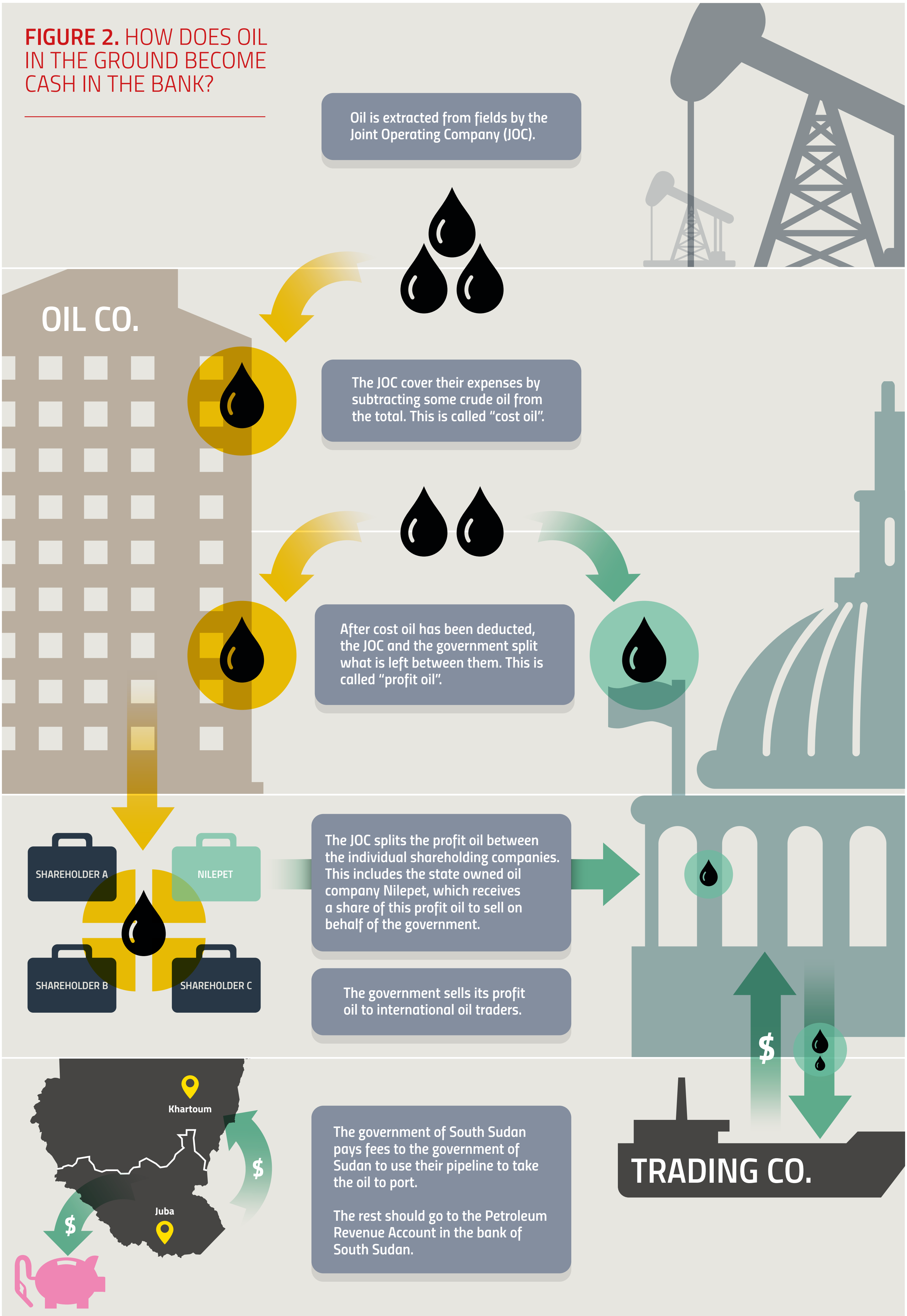
— Sudd Petroleum JOC runs the fields in block 5.
  - Nilepet- South Sudan- 8%
  - Petronas- Malaysia- 68%
  - ONGC- India- 24%

There are three main revenue streams that the South Sudanese Government receives for its oil from the JOCs: one off lump sum payments i.e. signature bonuses; annual payments i.e. surface rental fees; and the Government's share of crude oil.

Of these, the most financially significant is the Government share of crude oil. This is paid in kind by the JOCs, on a monthly basis. Nilepet, the state owned oil company, also receives a share of oil to sell. This company is owned wholly by the Government and so Nilepet's revenues are effectively state funds.

The crude oil is marketed by a team from the Government and Nilepet, who invite oil traders to bid for cargoes of oil. Money from these sales should be paid into the Petroleum Revenue Account by the traders via bank transfer. These sales represent the Government's largest source of cash income from the oil sector. In 2013 and 2014 the major buyers were Unipec, Chinaoil, Glencore, Trafigura and Vitol.

FIGURE 2. HOW DOES OIL IN THE GROUND BECOME CASH IN THE BANK?



Chapter IV, section 4.1.3. The identification, checking and recording of all loans and contracts collateralised or guaranteed against oil

When is the deadline for this provision to be implemented? **6 months after the start of the transitional period—25th May 2016**

Why is this important?

If the 30 month transitional period is to make a true break from past mismanagement, the current leadership must put their cards on the table and disclose how much future oil (oil still in the ground) has been used to guarantee loans and other contracts such as weapons shipments. Without knowing the extent of the country's debt, the Ministry of Finance will be unable to budget accurately, and any economic bail-out package issued by the international financial institutions may fail to meet the country's needs. The experience of countries like Angola shows that using oil to finance debt repayments risks dragging countries into a dangerous debt cycle from which it is hard to escape—oil revenues are used to pay off old loan deals, while more loans are needed to finance the budget.

Who are the key actors?

According to the Agreement, the responsible party is the Transitional Government. However, the current and past Ministers of Finance, and the current Minister of Petroleum, as well as the current and past governors of the Bank of South Sudan should also be prepared to open the books to ensure full transparency.

Recommendations for implementation

To the Transitional Government:

— The Transitional Government should, in co-operation with the Bank of South Sudan, publish a full list of all loan deals, creditors and terms.

To JMEC:

— JMEC should verify this list through consultation with creditors.

Chapter IV, section 4.1.1. Implementation of the Petroleum Revenue Management Act

When is the deadline for this provision to be implemented? **6 months after the start of the transitional period—25th May 2016**[19]

The Peace Agreement calls for the full implementation of South Sudan's Petroleum Revenue Management Act. Though the law is weighty in its requirements, it was passed two years ago. The implementing ministries (Finance and Petroleum) have had ample time to put the necessary processes in place, such as building a website and opening the requisite accounts. According to the Ministry of Petroleum, the Government receives information on oil production from the joint operating companies on a daily basis, and negotiates sales of oil through its marketing team every month. It is therefore already in possession of the information required to fulfil the transparency requirements in the law and should do so immediately.

Why is this important?

South Sudan's Petroleum Revenue Management Act is the law which sets out how the Government should account for the money it earns from the oil sector. It is a strong law that reflects international standards. The law requires that all oil revenues are funnelled into one single account, that the incomings and outgoings of this account are reported on regularly and publicly, and that the account is regularly audited. It is designed to ensure that oil revenues are used in a way which benefits citizens, to provide citizens with information about how the Government is managing natural resource income on their behalf, and to ensure that there is accountability within the Government should funds go missing. Though some of its key provisions are repeated in the Agreement, the law provides valuable implementing guidance and detail.

The law also sets out the parameters for how oil money should be used, requiring that some is saved, that the parliament participates in spending decisions through the budget process, that communities affected by oil production receive additional funding from the Government, and that oil money is not used as collateral for loans.[20] South Sudan's oil resources are finite, and have to go a long way towards keeping the country running and kick-starting economic development. The parameters defining how they should be used are designed to ensure that oil dollars provide these enduring benefits, when the fields themselves have run dry.

This provision is a foundational one because, if fully implemented, the Petroleum Revenue Management Act has the potential to rectify the mismanagement and opacity which has plagued oil revenue management to date. There are some clauses within the Act which will be especially important to facilitating effective and meaningful reform, and which could make a significant difference to the opportunities for corruption around oil dollars. These clauses should be prioritised for immediate implementation.

- Requiring companies to pay any and all oil revenues into one single account—the Petroleum Revenue Account.[21] This is also required by a provision in the Peace Agreement itself.
- Reporting publicly, on a quarterly basis, the amount of oil revenues earned, and how much has been transferred to the main budget, the savings funds, and to communities in oil producing areas.[22] The law requires that this information is available online and in at least two national newspapers to ensure its wide dissemination. However, there are currently no newspapers with a wide enough distribution to access citizens beyond major towns, and so the Transitional Government should supplement this with regular radio broadcasts to ensure sufficient reach.
- Requiring the Petroleum Revenue Account and savings funds to be audited annually by an independent auditor and the results made public.[23] Audits can act as a keystone of accountability, combat corruption, and help rebuild trust in key institutions.
- Guaranteeing that the National Legislative Assembly is able to approve the use of oil revenues through the budgeting process.[24] Parliamentary oversight of oil revenues could go some way towards ensuring that they are spent in ways that reflect the needs of South Sudanese citizens across the country.
- Committing not to use future oil revenue as collateral for loans.[25]
- Requiring companies to disclose payments to the Government to an independent third party,including how much crude oil the Government is allocated to sell for itself.[26] This "double disclosure" clause is a critical part of verifying the Government's own reporting and so mitigating key corruption risks. JMEC should play the role of the independent third party during the transitional period.

Who are the key actors?

The Transitional Government holds primary responsibility for the implementation of the Act. This will require commitment from both the Ministry of Finance and the Ministry of Petroleum, and the exchange of information and expertise between them. However, there are other parties who have a responsibility to support the Government in the implementation of the Act.

The oil companies involved in South Sudan's oil sector have a responsibility under the law to ensure that all oil related payments are directed to the Petroleum Revenue Account and that they report on these payments to an independent third party. This should apply not just to the companies operating the fields in South Sudan, but also the trading companies buying South Sudan's crude from the Government's marketing committee. The international guarantors of the deal, and JMEC, should engage these companies from the very beginning of the transitional process.

South Sudan's National Audit Chamber bears overall responsibility for internal audits, and for appointing an international company to conduct independent audits. In the past, it has been hindered in fulfilling this role by lack of funds and capacity. The last audit to be presented to parliament was for the year 2008. It stated that the Audit Chamber "did not receive adequate data on oil production, processing, storage and sales" and cited unexplained discrepancies of nearly 70 million SSP ($25 million) in the reported revenues.[27]

South Sudan's National Legislative Assembly will be critical to ensuring that the transparency required of the Government through the Petroleum Revenue Management Act translates into meaningful accountability. The Parliament must scrutinise audits and quarterly reports in particular to raise any inconsistencies with the Transitional Government. The donor community also have a role to play in ensuring that MPs have sufficient capacity and technical expertise to enable genuine oversight.

Recommendations for implementation

To the Transitional Government:

- The Ministry of Petroleum and Mining and the Ministry of Finance should:
  - declare a moratorium on new oil sector contracting until this legal framework is operational;
  - set up the required pages on the Ministry of Finance website;[28]
  - identify the newspapers and radio networks which will carry the oil revenue reporting.
- The National Audit Chamber should appoint an international company to conduct external audits

To JMEC:

- JMEC should engage the operating and trading companies to ensure that they are ready to honour their obligations under South Sudanese law and the Peace Agreement;
- JMEC should serve as the "independent entity" to whom companies disclose payments during the transitional period.

To the oil operating and trading companies:

- The companies should disclose to JMEC, on a quarterly basis, records of all payments, both monetary and in kind, made to the Transitional Government;
- The companies should disclose, on a quarterly basis, the accounts into which these payments are made.

To the international donors:

- The donors should provide technical support to the National Legislative Assembly to ensure they are able to fulfil their oversight mandate under the law. This could include:
  - providing technical experts to the Committees of Finance and Energy;
  - funding parliamentary researchers to assist the heads of all parliamentary committees;
  - supporting the provision of a well organised parliamentary library with reliable internet access.

PUBLIC REPORTING ON SOUTH SUDAN'S OIL REVENUES

South Sudan's Petroleum Revenue Management Act requires that the Ministry of Petroleum and Mining must publish the records of petroleum revenue no more than six weeks after the end of each quarter. This means that South Sudanese citizens can expect information on what their Government has earned from oil sales at the following intervals:

- By mid-February, the records of petroleum revenue received between October and December;
- By mid-May, the records of petroleum revenue received between January and March;
- By mid-August, the records of petroleum revenue received between April and June;
- By mid-November, the records of petroleum revenue received between July and September.

According to the law, companies should also disclose the same information to an independent entity. JMEC should serve as this entity. Double disclosure allows for the two sets of data to be checked and verified against one another.

The information published should be divided, and so should list different types of revenue and individual transactions separately. The three JOCs should report independently of one another, meaning that the data will be divided by the three individual projects. This level of disaggregation is important. When data on oil earning is presented as one big number, it is far easier for governments or companies to conceal illicit payments, or missing revenue streams.

Chapter IV, section 4.1.13.14. The review and transformation of the National Oil Company

When is the deadline for this provision to be implemented? **3 months after the start of the transitional period- 25th February 2016.**

Why is this important?

Nilepet is South Sudan's state owned oil company. The company is owned wholly by the Government and so ultimately by the citizens of South Sudan.[29] As such, it should be completely open about all of its operations so that its ultimate owners can be sure it is being managed properly and is serving their best interests.

The company plays a central role in South Sudan's oil industry. It holds a shareholding in all three of the Joint Operating Companies operating in South Sudan's oil fields and so also receives a share of crude oil to sell. In the financial year 2013-14 Nilepet earned almost $25 million from the sale of its share of oil.[30] This money belongs to the state (and, by extension, South Sudanese citizens) because the company is wholly Government owned.

As well as selling its own share of crude, Nilepet also has influence over the Government's sale of its own share of oil by virtue of its seat on the Government's marketing committee. This dual responsibility for selling both its own and the Government's shares gives the company influence over all of South Sudan's oil exports.

As a result of the central role it plays and its public ownership, South Sudanese legislation demands high standards of transparent governance from the company. It is required by the Petroleum Act to publish annual audited accounts, and fees paid and received.[31]

The management of the company since independence runs counter to this principle, and it remains opaque to citizens. Global Witness has never seen evidence of published audited accounts or other financial information. In 2015, the Board of the company has been subject to changes issued by the President, with no explanation of the reason for appointments or dismissals. The company requires a complete transformation, as proposed in the Peace Agreement.

Who are the key actors?

According to the Peace Agreement, the National Legislative Assembly and the Transitional Government are the parties responsible for reforming Nilepet. To this list, the current and past board members of Nilepet should be added, to ensure full transparency in the auditing process.

Recommendations for implementation

To JMEC:

— The Agreement does not specify what the transformation of the company should entail. JMEC should clarify this as a priority.

To the Transitional Government:

— The Transitional Government should, by the agreed deadline, present a clear plan of action and timeline for the transformation of the company in line with JMEC's clarification.

— At the very least, the Transitional Government should review and reconstitute the board of the company on the basis of merit, and should provide public justification for the appointment of each member.

To Nilepet:

— The company should make public annual audited accounts, assessed by an independent international firm, for the period since its establishment.[32]

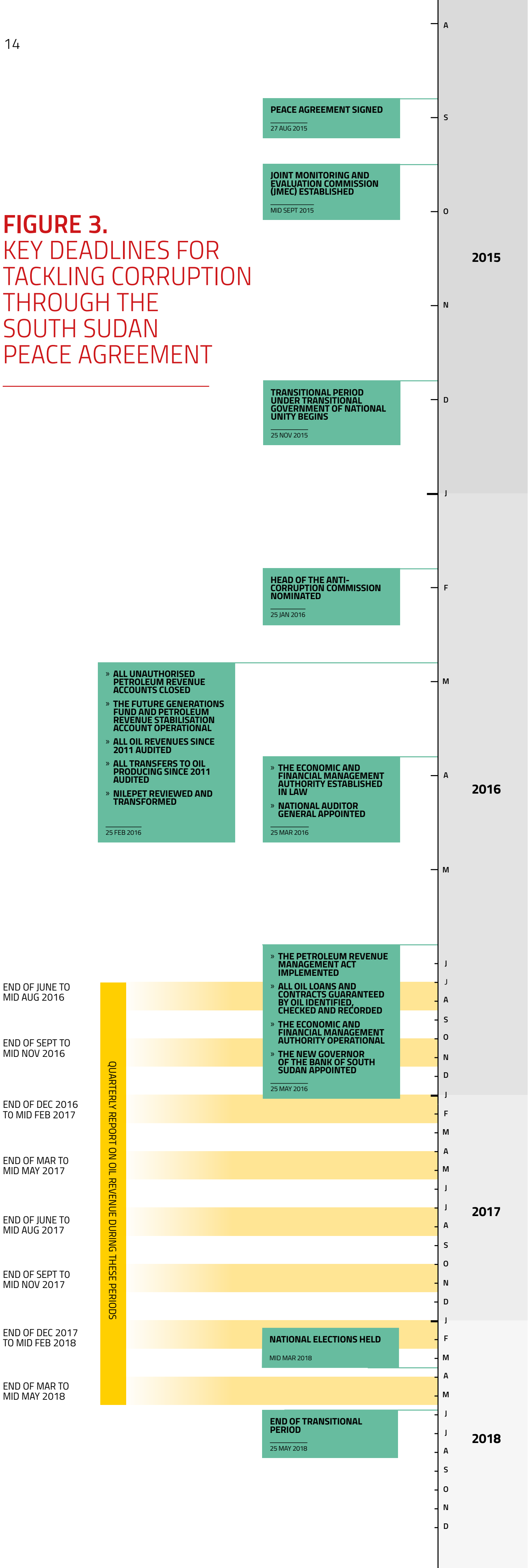
Chapter IV, section 4.1.7. The oil marketing system, including future sales, shall be open, transparent and competitive

When is the deadline for this provision to be implemented? **There is no deadline for the implementation of this provision given in the Agreement. This is an important provision that should be completed by the end of the transitional period in May 2017.**

Why is this important?

South Sudan receives the vast majority of its oil revenues from the sale of crude to international traders. South Sudan's share of crude oil is sold by a marketing committee, comprised of members of the Ministry of Finance, the Ministry of Petroleum, Nilepet and the Bank of South Sudan. As the system currently exists, there is no public information about how trading companies bid for oil cargoes or how the bids are judged. The Ministry of Petroleum has produced two marketing reports—the first in 2012 and the second in 2014—which provide information on how much each company buys and how much they pay. However, these reports are not dissem-

FIGURE 3.
KEY DEADLINES FOR TACKLING CORRUPTION THROUGH THE SOUTH SUDAN PEACE AGREEMENT



inated widely. They are not available online, their availability is not publicised, and they do not provide enough detail to allow the public to understand the government's incomings and outgoings from oil on a monthly basis.

Who are the key actors?

There are none defined in the in the Peace Agreement. This provision is important for the reasons stated above, but ill defined. One of the priorities of JMEC should be to clarify the parameters and timeline of this provision.

Global Witness recommends that the marketing team (comprised of members of the Ministries of Finance and Petroleum, Nilepet and the Bank of South Sudan) should lead the revision of South Sudan's oil marketing system, with substantial technocratic assistance. JMEC should approve the final structure.

Recommendations for implementation

To JMEC:

— As a first step, JMEC should set out a plan of action for the comprehensive reform of South Sudan's oil marketing system, and seek advice from qualified and neutral parties about how an open, transparent and competitive marketing system should work;

— JMEC should approve the final structure of the marketing system within the 30 month transitional period.

To the donors:

— Donors should focus financial and technical capacity on this reform process, and provide technical assistance to the marketing team.

NOTES

1 More information on Global Witness' call for a moratorium on new contracting in South Sudan's oil sector can be found in our briefing on the subject which can be accessed here: http://bit.ly/1R9imrn

2 R. Hamilton, 2010, 'Awaiting Independence Vote Southern Sudan Has High Hopes' accessed at http://bit.ly/1BOXlKc
And South Sudan's Ministry of Finance and Economic Planning 2014/15 budget plan accessed at http://bit.ly/1eTub7Q

3 European Coalition on Oil in Sudan, 2010, 'Scrutinising South Sudan's oil industry'; Transparency International, 2014, 'Corruption Perceptions index' accessed at http://bit.ly/1vJVF4W.

4 This number is based on calculations by Global Witness, and data provided by the Ministry of Petroleum and Mining, 'MPM marketing report', vols. 1 and 2 available from the Ministry, and the Ministry of Petroleum and Mining 'End of Year message 2014'.

5 World Bank data accessed at http://bit.ly/1C3isvu

6 World Bank policy research paper, 2011, 'South Sudan's Infrastructure', accessed at http://bit.ly/1T1izza

7 Transparency International, 2014, 'Corruption Perceptions Index' accessed at http://bit.ly/1FLkheQ.

8 Letter from the Office of the President to corrupt officials, 3rd May 2012, accessed at http://bit.ly/1zElaCS

9 A. DeWaal, 2014, 'When kleptocracy becomes insolent: the brute causes of the civil war in South Sudan', accessed at http://bit.ly/1FJ55Pr

10 A. DeWaal, V. Ndula, 2015, 'South Sudan: who got what?' accessed at http://bit.ly/1LdaMcD

11 Republic of South Sudan Ministry of Finance and Economic Planning, 2015 '2014/15 Third Quarter Macro- Fiscal Report' accessed at http://bit.ly/1jQxz5F. SSP to US$ exchanged at Government rate- 2.7 SSP to 1 US$.

12 IAGD, Agreement on the Resolution of the Conflict in the Republic of South Sudan, chapter VII.

13 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter IX, section 35 (2).

14 The Agreement does not define, and the international guarantors and oversight bodies have yet to decide, what constitutes "corrective measures".

15 IAGD, Agreement on the Resolution of the Conflict in the Republic of South Sudan, chapter VII, sections 3 and 5.

16 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter II, section 6 (2).

17 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter IX.

18 IGAD, 'Agreement on the Resolution of the Conflict in the Republic of South Sudan', chapter IV, section 4.1. 19 There is an inconsistency in the Peace Agreement on the timeframe for the implementation of this provision- the main text states three months, while the appendix states six. Global Witness view is that six months represents a reasonable timeframe to implement the law.

20 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter IV; chapter III, section 10 (1); chapter VIII, section 29; chapter VII, section 28 (3) respectively.

21 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter I, section 7 (1).

22 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter IX, section 32.

23 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter X, section 39 (1) and chapter IX, section 32 (2)(c) respectively.

24 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter III, section 10 (1).

25 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter VII, section 28 (3).

26 Republic of South Sudan, 'Petroleum Revenue Management Act', chapter IX, section 35 (2).

27 Republic of South Sudan, National Audit Chamber, 'Financial Audit report, for the year ended 31st December 2008, 2012 p. 11. The exchange rate used is the bank of South Sudan rate- 2.7SSP to $1

28 Republic of South Sudan, Ministry of Finance and Economic Planning website accessed here: http://www.grss-mof.org/

29 Republic of South Sudan, 'Petroleum Act 2012', section 13 (4)

30 The Ministry of Petroleum and Mining, 2014, 'MPM Marketing report- vol.2', available from the Ministry.

31 Republic of South Sudan, 'Petroleum Act 2012', section 13 (10)

32 Best practice for the management of state owned oil companies can be found in the Natural Resource Governance Index's Natural Resource Charter: The Natural Resource Charter, November 2012, Precept 6.

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