



Joint Monitoring and Evaluation Commission
(JMEC)

**RESOURCE, ECONOMIC FINANCIAL AND MANAGEMENT
WORKING COMMITTEE**

Report to

H.E. Festus G. Mogae, Chairperson of JMEC

On

The Status of Implementation of Chapter IV of the ARCSS

19th September 2017

Juba, South Sudan

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A. Introduction

The Chapter IV, Resource, Economic and Financial Management Working Committee was established in April 2017 as one of six Thematic Committees. The Committee is mandated to monitor and evaluate progress in implementation of Chapter IV of ARCSS, and make recommendations on measures to advance progress. The Working Committee which consists of six JMEC members, the JMEC secretaries and observers, has been chaired by H.E. Ambassador Gunnar Holm of Norway, and after his departure from Juba, by the Deputy Head of the Norwegian Mission, Ms. Signe Gilen. Since its establishment, the Committee has held six meetings.

In this first phase of the work, the review of the status in the implementation process and identifying factors have taken up most of the Committee's attention. There has only been time to discuss and make recommendations on broader principles for the implementation process. In the next phase of its work, the Committee will develop the recommendations in more detail.

B. Overview of chapter IV

Chapter IV covers 131 individual provisions organized in sections 2 – 8 (Section 1 in the chapter describes general guidelines):

SECTION 2: Institutional Reforms (**32 provisions**) relating to:

- The Bank of South Sudan
- The Ministry of Finance
- The Anti-Corruption Commission
- The National Audit Chamber
- The Ministry of Labour
- The Ministry of Cabinet Affairs

SECTION 3: Review of National Legislation (**11 provisions**) covers review of ten acts and one bill to check whether amendments are needed to conform with the ARCSS

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SECTION 4: Resource Management (34 provisions) relating to:

- The Ministry of Petroleum
- The Ministry of Mining
- The Ministry of Finance and Planning
- The Land Commission
- The Ministry of Agriculture
- The Ministry of Livestock and Fishing,
- The Ministry of Water Resources
- The Ministry of Wildlife and Tourism
- The Ministry of Environment
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SECTION 5: Environmental Protection (1 provision) relating to:

- The Ministry of Environment

SECTION 6: Public Financial and Economic management (36 provisions)
relating to:

- The Ministry of Finance (most provisions)
- The Bank of South Sudan, the National Audit Chamber, the Transitional National Assembly, the Ministry of Labour are involved in some provisions.

SECTION 7: Enterprise Development Fund (10 provisions) relating to:

- Ministry of Trade and Industry (has been put in charge of setting up the Development Fund).

SECTION 8: Economic and Financial Management Authority (7 provisions)
relating in particular to:

- The Ministry of Finance and Planning
- Ministry of Petroleum
- The Minister of Cabinet Affairs as the coordinator

In addition to the listed institutions under Sections 2 – 8, the Ministry of Justice, the Law Review Commission and the Transitional National Legislative Assembly are involved in



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areas where new acts or legal amendments are required. The National Constitutional Amendment Committee has been given the responsibility to develop legislation for Section 8.

Table 1 in the Annex lists the reporting institution (which generally corresponds to the institution primarily affected) for each provision

C. Methodology

C.1. The stages in the assessment process

The starting point of the assessment has been reporting of progress by the relevant TGoNU institutions at meetings with the Ministry of Finance and the JMEC Secretariat. In these meetings, the reporting from the institutions have been discussed and sometimes amended.

The next stage in the evaluation has been the assessment of the reporting from TGoNU in the JMEC Working Committee. In these assessments, additional relevant information has been taken into account before concluding the assessment.

The reporting is based on a scoring system.

- A Score of 2 has been given if implementation is complete or nearly complete.
- A score of 1 has been given if part of the provision is implemented (tangible progress)
- A score of 0 has been given if there is little or no progress.

Self-assessment normally tends to give an assessment on the optimistic side of what is achieved compared with what a full auditing would have revealed. Critical review and adjustment of the scores by JWC have helped to correct this bias

A few provisions have not been assessed due to lack of information. Given the number of provisions to cover, the resources that has been available within the JMEC Secretariat and the time frame set for this work has set limits to what could be achieved.

The assessment of progress will be updated on a quarterly basis and to take into account advances in, and more complete information on implementation.

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C.2 The reporting from TGoNU

Once the JWC framework was conceived and established, the Ministry of Finance and Planning, representing the Economic Cluster of the Government has been very dedicated to, and supportive of the work of the JWC. The meetings with the relevant TGoNU institutions, which involved senior staff, in most cases at undersecretary level from the relevant institutions, were organized and chaired by the Undersecretary of Planning, Ministry of Finance. Mr. Wani, Buyu Dyori and in some cases DG Macro, Mr. Moses Mabior. Altogether 8 meetings were held:

2 meetings covering provisions relating to the Ministry of Finance and Planning.

1 meeting covering provisions related to:

- Ministry of Trade and Industry,
- The Land Commission,
- The Anti- Corruption Commission.
-

1 meeting covering provisions related to:

- The Bank of South Sudan,
- The Ministry of Agriculture,
- The Ministry of Livestock and Fishing,
- The Ministry of Water resources,
- The Ministry Wildlife and Tourism,
- The Ministry of Environment,
- The Ministry of Mining.

2 separate meetings covering provisions related to:

- The Ministry of Petroleum,
- The National Audit Chamber (with the Auditor General).

2 separate meetings covering

- The Ministry of Labour,
- The Law Review Commission.



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In this first phase of the work, we have not made contact with the Transitional National Legislative Assembly.

In addition, assessments made by the JMEC Secretariat was sent to the Auditor General for comment.

In a few cases, where has not been time to collect the necessary information, single provisions have been excluded from the assessment (detailed information is given in section in the Annex).

C.3 Validation by the JMEC Working Committee

The JMEC Committee considered the degree of implementation of 127 of the 131 provisions. The Committees assessments resulted in a downward adjustment of the scores. In 9 cases the status has been changed from full implementation to partial implementation. The Ministry of Petroleum has in particular been affected by the downward adjustments.

There have been 10 upward changes from no progress to partial implementation. These are of more technical nature and do not reflect a change in assessments of what is happening on the ground. These have been made in order to achieve consistent methodology in the assessments of the implementation across provisions. Additionally, as work on the Development Plan now is well underway (as opposed to in April when the first JWC assessment was made), the score has been changed from 0 to 1.

D. Progress in implementation of Chapter IV provisions

D.1 The overall picture

The statistics on progress in implementation are presented in chart 1 and 2. The degree of implementation is low. **16** provisions out of 127 (**13** per cent) have been implemented.

This figure does not give credit for reported progress through partial implementation. Overall, **39 %** of total provisions are partially implemented. The reporting of partial implementation is not straight forward to interpret. In some cases, it may reflect considerable progress. An example is progress in implementing the Act governing the Bank of South Sudan. The Bank has completed the technical work needed for amendment of the law, and is waiting for the legal work to be completed and the

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passing of the law TNLA. In other cases, there probably is a risk that the reporting conveys an overly optimistic view of the implementation process.

For almost half the provisions, **45 %**, no progress in implementation is reported.

D.2 Progress by section

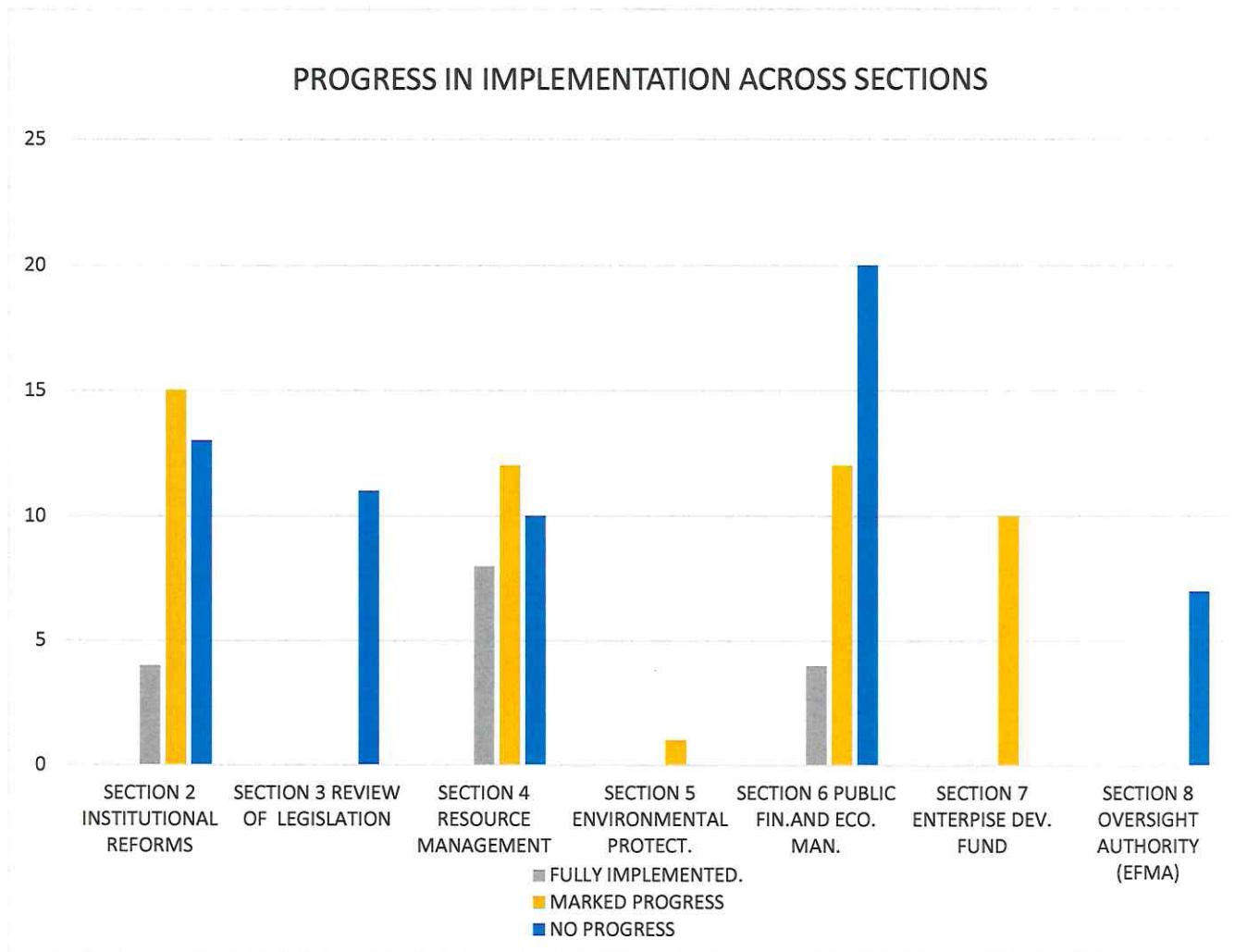
Chart 1 and Table display the implementation status for the seven sections in chapter IV

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Chart 1: Number of provisions either implemented, partially implemented or showing no progress



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Table 1 Progress in implementation. In per cent of total provisions in sections

	IMPLEMENTED IN PER CENT OF ALL PROVISIONS IN SECTION	PROGRESS (PARTIAL IMPLEMENTATION) IN PER CENT OF ALL PROVISIONS IN SECTION	NO PROGRESS
SECTION 2 INSTITUTIONAL REFORMS	13 %	47 %	40 %
SECTION 3 REVIEW OF LEGISLATION	0 %	0 %	100 %
SECTION 4 RESOURCE MANAGEMENT	27 %	40 %	33 %
SECTION 5 ENVIRONMENTAL PROTECT.	0 %	100 %	0 %
SECTION 6 PUBLIC FIN.AND ECO. MAN.	11 %	33 %	56 %
SECTION 7 ENTERPRISE DEV. FUND	0 %	100 %	0 %
SECTION 8 OVERSIGHT AUTHORITY (EFMA)	0 %	0 %	100 %
FOR ALL PROVISIONS	13 %	39 %	48 %

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- In section 3, 5, 7 and 8 none of the individual provisions have been implemented (Section 3 contains only one provision).
- The degree of implementation in the three remaining sections vary between 11 % (Public Finance and Economic Management) and 27% (Resource Management)

If we look at provisions where partial implementation is reported, the overall score is 39 %, The score for the sections vary from:

- from 0 for sections 3 and 8,
- between 33% and 47% of the provisions for sections 2, 4 and 6
- 100% for sections 5 (reflecting that there is progress in implementing the single provision in the section) and 7.

E. Impediments to progress

There are different impediments at work:

- Financial constraints. For section 7: Establishment of an Enterprise Fund, lack of financing is the effective constraint.
- Weak technical capacity is constraining progress for the Ministry of Petroleum and the Ministry of Finance and Planning. The situation has been exacerbated by the pull out of Technical assistance after 2013, and particularly after the conflict in July 2016.
- Capacity constraints in the Law Review Commission. With present resources, the Commission has estimated that it will need time up to the first part of 2020 to address the reviews called for in section 3.
- Lack of effective coordination and cooperation between ministries/institutions. According to the Auditor General, progress for the National Audit Chamber is slowed down because they do not receive reporting of data from ministries when requested. It is unclear whether the problem is lack of available data, inefficient dissemination of data or low priority for reporting.
- Low political commitment to progress/poor prioritization. The Land Commission, the Anti-Corruption Commission and the National Audit Chamber have pointed to poor prioritization or political resistance as an impediment for carrying out their functions properly.

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Low prioritization has also been manifested by examples of bills not implemented by the Ministry of Justice and in legislation (including the Procurement Bill) having been stuck for years in the National Assembly without the hearings being finalized.

There has been no follow up from TGoNU on Section 8, Economic and Financial Management Authority (EFMA) which is a central piece of chapter IV.

While some of these impediments (financial constraints, low technical capacity) can be attributed to the difficult economic situation and withdrawal of foreign technical assistance, political commitment and prioritization are purely domestic issues. Political resistance to reforms has to be overcome by the Government and the broader South Sudan society.

Transparency and accountability are core themes in chapter IV. According to Transparency International, South Sudan is perceived as one of the most corrupt countries in the world. Legislation that ensures accountability and transparency and appropriate enforcement mechanisms constitute indispensable foundations for an effective and democratic governance system that can limit corruption. Effective institutions are needed.

The fight against corruption requires sufficient resources and powers to the Anti-Corruption Commission. However, according to the reporting from the Commission, little has been done to protect it from political interference and ensure its independence and strengthen the legal and institutional framework.

Fighting corruption also requires an effective audit institution to uncover misappropriation of public funds and identify those responsible. National auditing of performance of public institutions may also have a role in promoting efficiency in the public sector. The National Audit Chamber is building capacity through cooperation with audit institutions in IGAD countries.

Today, the effectiveness of the National Audit Chamber is in part reduced as a consequence of audit reports being outdated due to a significant backlog in auditing. However, more importantly, the reports are not given due attention in the Transitional National Legislative Assembly or by ministries.

Due to weak coordination in areas cutting across the government, good progress in implementation of provisions in chapter 4 by individual ministries and institutions have



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not resulted in full implementation, due to lack of progress in other parts of the government. Identifying these areas may identify provisions that can be implemented with more limited effort.

The economic crisis that evolved through the last months of 2015 and amplified in 2016 has forced the hand of the Government in economic policy in a way that was not foreseen at the time of the signing of the Peace Agreement. The focus has been on measures that have cut the fiscal deficit.

The Ministry of Finance and Planning must be complemented for their ownership of Chapter IV and efforts aimed at improving Budget Management consistent with the provisions in the chapter. These include: (i) measures, albeit in the face of difficult circumstances to increase revenue performance by establishing a fully functional National Revenue Authority; (ii) closure of government bank accounts in commercial banks including those linked to petroleum receipts; (iii) developing a National Development plan; and (iv) constraints on new borrowing and tackling of payment arrears owed to public sector workers, suppliers of goods and service. Some of the measures implemented, notably the establishment of a Cash Management Committee to oversee revenue collection and disbursements goes further than the provisions in chapter IV.

It is understandable that in the difficult economic situation, priorities had to shift towards a narrower focus of budget consolidation. But this is not a sustainable approach. It is important, as part of the national development strategy, to come on track with a broad reform strategy that is coordinated with other elements in the economic policy strategy.

No action has been taken on *Section 8*. These reforms entailing an oversight mechanism for economic policy, are seen as central for building confidence among international partners, and for mobilizing international resources for development. Without assistance and investments from abroad, it will be extremely difficult for South Sudan to develop.

There appears to be a reluctance in TGoNU to implement legislation for an Economic and Financial Management Authority (EFMA). The EFMA proposed under Chapter IV envisaged an authority to provide oversight of economic and public financial management. It would be presided over by a Board comprising of the President and First Vice President of the Republic of South Sudan and other top TGoNU officials. The Board would in turn be supported by an Advisory Council with members from the World Bank, IMF, and African Development Bank among others.



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F. Recommendations

Given the present situation, there is a clear need to sort out the positions of the International partners and TGoNU on the oversight mechanism EFMA (Section 8 in Chapter IV) and options to move forward within the framework of the Peace Agreement.

The findings presented here demonstrate that there is a clear need for TGoNU coordinate implementation of chapter IV better across ministries and institutions. The Minister of Cabinet Affairs should play a key role, not least in the areas that involve the Law Review Commission. It is necessary to ensure that sequencing of work reflect overall priorities and meet defined timelines.

The provisions in Chapter IV are vital parts of the Peace Agreement and constitute a recipe for good economic and financial management. The provisions, if implemented, support growth and development. However, carrying out broad reform in the present situation is challenging. Weak finances and limited technical capacity are constraints that have to be taken into account in drawing up a realistic implementation schedule for the remaining provisions in chapter IV.

The JMEC Working Committee on Chapter IV will in the next phase of its work, present specific recommendations for prioritization and timelines implementation of chapter IV.

Signed by

Signe Gilen

Ms. Signe Gilen

Chairperson of the Committee

20. September 2017



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ANNEX: Matrix chapter IV

Table 1 below summarizes the results

Table1. Annex: STATUS RECORDED IMPLEMENTATION PER 11TH SEPTEMBER 2017

Reading the table

Column A: Reporting institution TGoNU

Column B: Article number (the table must be read together with the text in chapter IV).

Column C: Score implementation reported by TGoNU

- 2: Complete, or nearly complete implementation .
- 1: Partial implementation/tangible progress
- 0 Little or no progress
-

Column D: Score Implementation reported by JWC after validation process

Column E: Commenting differences between JWC reporting and TGoNU reporting.

- *Dark grey shading indicates articles where the JWC has reached a different conclusion from that of TGoNU.*
- *Light gray shading indicates the provisions that are relevant in the present situation, or where JWC has not had sufficient basis for making assessments.*

A Reported by	B ARTICLES	C SCORE TGoNU	D SCORE JWC	E COMMENTS:
BANK OF SOUTH SUDAN	2.1.1	1	1	
BANK OF SOUTH SUDAN	2.1.2	1	1	
BANK OF SOUTH SUDAN	2.1.3.1	1	1	
BANK OF SOUTH SUDAN	2.1.3.2	1	1	
BANK OF SOUTH SUDAN	2.1.3.3	2	2	
BANK OF SOUTH SUDAN	2.1.3.4	2	2	
BANK OF SOUTH SUDAN	2.1.3.5	2	2	
BANK OF SOUTH SUDAN	2.1.4	2	2	
Min. of Fin. and Min. of Petrol..	2.2.1.1	0	1	SCORE updated to 1 as the work on the three year Min. of Petrol is under preparation
Ministry of Fin and PL./O+others..	2.2.1.2	1	1	
Min. of Finance and Pl..	2.2.1.3	1	1	



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Min. of Finance and Pl..	2.2.1.4	1	1	
Min. of Finance and Pl..	2.2.1.5	0	0	
Min. of Finance and Pl..	2.2.1.6	1	1	
Min. of Finance and Pl..	2.2.1.7	1	1	
Min. of Finance and Pl..	2.2.1.8	1	1	
Anti Corruption Commission	2.3.1.1	0	0	
Anti Corruption Commission	2.3.1.2	0	0	
Anti Corruption Commission	2.3.1.3	0	0	
Anti Corruption Commission	2.3.1.4	0	0	
Anti Corruption Commission	2.3.1.5	0	0	
Anti Corruption Commission	2.3.1.6	0	0	
Anti Corruption Commission	2.3.2	0	0	
National Audit Chamber	2.4.1	1	1	
National Audit Chamber	2.4.2	1	1	
National Audit Chamber	2.4.3	1	1	
National Audit Chamber	2.4.4	0	0	
Min. of Finance and Pl..	2.5.1.1	1	1	
Min. of Finance and Pl..	2.5.1.2	0	0	
Min.stry of Labour	2.5.1.3	0	0	
Min.stry of Environment and Forestry	2.5.1.4	0	0	
Min.stry of Cabinet Affairs	2.5.1.5	0	0	
Law Review Commission	3.1.1	0	0	
Law Review Commission	3.1.2	0	0	
Law Review Commission	3.1.3	0	0	
Law Review Commission	3.1.4	0	0	
Law Review Commission	3.1.5	0	0	
Law Review Commission	3.1.6	0	0	
Law Review Commission	3.1.7	0	0	
Law Review Commission	3.1.8	0	0	
Law Review Commission	3.1.9	0	0	
Law Review Commission	3.1.10	0	0	
Law Review Commission	3.1.1.11	0	0	
Min. of Fin. and Pl.	4.1.1	1	1	
Min. of Fin. and Pl.	4.1.2	2	1	Question whether all alternative petroleum revenue accounts closed. Cf. 6.1.2
Min. of Fin. and Min. of Petrol..	4.1.3	2	2	
Min. of Petrol.	4.1.4	1	1	
Min. of Petrol.	4.1.5	2	1	Question whether Min of Petrol . has the capacity to audit
Min. of Petrol.	4.1.6	2	1	Has not likely been impl.. Seen as a long term goal
Min. of Fin. and Pl..	4.1.7	2	1	Not incorporated in penal code
Min of Petrol.	4.1.8	1	1	
Min. of Finance and Pl..	4.1.9	2	2	
Min. of Fin. and Min. of Petrol..	4.1.10	2		Out.Not relevant, and iMin. of Petrol.ossible to determine
Min.of Mining/Min. of Petrol	4.1.11	1	1	



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Min. of Mining/Min. of Petrol.	4.1.12	2	2	
Min. of Mining/Min. of Petrol.	4.1.13.1	2	1	Provisions rel. to transparency not iMin. of Petrol.I. Process with contractors need better follow up
Law Review Commission	4.1.13.2			Out Not time to b checked
Law review Commission	4.1.13.3			Out Not time to be checked
Min. Mining/Min. of Petrol.	4.1.13.4	2	2	
Min. of Petrol.	4.1.13.5	1	1	
Min. of Petrol.	4.1.13.6	0	0	
Min. of Fin. and Pl.	4.1.13.7	0	0	
Min. of Fin. and Pl.	4.1.13.8	0	0	
Min. of Fin. and Pl..	4.1.13.9	0	0	
Min. of Fin. and Pl.	4.1.13.10	0	0	
Ministry of Mining/Min. of Petrol.	4.1.13.11	1	1	
Ministry of min.ng/min. of petrol.	4.1.13.12	2		Out. Not relevant, not possible check
Min. of Petrol.	4.1.13.13	2	2	
Min. of Petrol.	4.1.13.14	0	0	
Min. of Mi/Min of Petrol.	4.1.13.15	1	1	
Min. of Fin. and Min. of Petrol..	4.1.13.16	2	2	
Land Commission	4.2.1.1	0	0	
Land Commission	4.2.1.2	0	0	
Land Commission	4.2.1.3	0	0	
Land Commission	4.2.1.4	0	0	
Min. of Water Resources and irrigation	4.3	2	2	
-Min. of Agriculture and Food Security -Min. of Livestock and Fishing -Min. of Wildlife Conservation and Tourism	4.4	2	2	
Min. of Environment and Forestry	5	1	1	
Ministry of Fin and Pl...	6.1.1	2	1	Cf. 6.1.2
Ministry of Fin and Pl...	6.1.2	2	1	Question whether proceeds from NilePet's oil sales have been deposited as required.
Ministry of Fin and Pl.../TLNA	6.1.3	0	0	
Ministry of Fin and Pl...	6.1.4	1	1	
Ministry of Fin and Pl...	6.1.5	1	1	
Ministry of Fin and Pl...	6.1.6	1	1	
Ministry of Fin and Pl...	6.1.7	1	1	
Ministry of Fin and Pl...	6.2.1.	1	1	
Ministry of Fin and Pl...	6.2.2	0	0	
Ministry of Fin and Pl...	6.2.3	0	0	
Ministry of Fin and Pl...	6.2.4	0	0	
Ministry of Fin and Pl...	6.2.5	0	0	



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Ministry of Fin and Pl...	6.2.6	0	0	
Ministry of Fin and Pl...	6.3.1.1	1	1	
Ministry of Labour	6.3.1.2	0	0	
Ministry of Fin and Pl...	6.3.1.3	1	1	
Ministry of Fin and Pl...	6.3.1.4	1	1	
Ministry of Fin and Pl...	6.3.1.5	1	1	
Ministry of Fin and Pl...	6.3.1.6	2	2	
Ministry of Fin and Pl...	6.3.1.7	1	1	
Ministry of Fin and Pl...	6.3.1.8	0	0	
Ministry of Fin and Pl...	6.4.1	0	0	
Ministry of Fin and Pl...	6.4.2	0	0	
Ministry of Fin and Pl...	6.4.3	2	2	
Ministry of Fin and Pl...	6.4.4	2	2	
Ministry of Fin and Pl...	6.4.5	1	1	
Ministry of Fin and Pl...	6.5.1	1	1	
Ministry of Fin and Pl...	6.5.2	0	0	
Ministry of Fin and Pl...	6.5.3	1	0	No auditing
Ministry of Fin and Pl...	6.5.4	2	2	
National Audit Chamber	6.5.5		0	Scores derived and set by JMEC secretariat on the basis of information related to 2.4.1 -2.4.2.
National Audit Chamber	6.5.6		0	
TNLA	6.5.7		0	
MIn. of Fin. and Min of Petr.	6.5.8	1	1	
Min. of Fin. and Min. of Petrol../Min of Petrol/Min of Mining/ Min. of Fin and Pl/ bank of South Sudan.	6.5.9	1	1	
TGONU	6.5.10	1	1	
Ministry of Trade and Industry	7.1.1	0	1	Reporting from TGoNU adjusted to ensure consistent evaluation method across sections. Ministry of Trade and Industry has prepared a plan for setting up the various parts of the fund. Financing is the constraining factor
Ministry of Trade and Industry	7.1.2	0	1	
Ministry of Trade and Industry	7.1.3	0	1	
Ministry of Trade and Industry	7.1.4	0	1	
Ministry of Trade and Industry	7.1.5	0	1	
Ministry of Trade and Industry	7.1.6	0	1	
Ministry of Trade and Industry	7.1.7	0	1	
Ministry of Trade and Industry	7.1.8	0	1	
Ministry of Trade and Industry	7.1.9	0	1	
Ministry of Trade and Industry	7.1.10	0	1	
Min. of Fin. and Min. of Petrol..	8.1	0	0	
Ministry of Fin and PL.+others..	8.2	0	0	
Ministry of Fin and PL.+others..	8.3	0	0	
Ministry of Fin and PL.+others..	8.4	0	0	
Ministry of Fin and PL.+others..	8.5	0	0	
Ministry of Fin and PL.+others..	8.6	0	0	
Ministry of Fin and PL.+others..	8.7	0	0	