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TO: Special Envoys to South Sudan

FROM: Chairman, Joint Technical Committee, Monitoring and Verification Mechanism,
Juba, South Sudan

DATE: 11 May 2015

SUBJECT: Report on Violations of the Cessation of Hostilities Agreement

Your Excellencies,

Please find attached the Joint Technical Committee (JTC) report on violations of the Cessation of Hostilities Agreement (23 January 2014) in Unity State from 27 April 2015.



Major General (Retired) Negash Dagnew Ayele
Chairman, Joint Technical Committee



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JOINT TECHNICAL COMMITTEE (JTC)

INVESTIGATIONS INTO VIOLATIONS OF THE CESSATION OF HOSTILITIES AGREEMENT IN UNITY STATE

(V039)

PRESENTED TO:

**THE SPECIAL ENVOYS TO THE REPUBLIC OF SOUTH SUDAN
INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)
ADDIS ABABA, ETHIOPIA**

11 May 2015



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Executive Summary

In the latter stages of March and then during April the MVT based in the UNMISS camp near Bentiu witnessed a build-up of Government Forces troops. On 27 April fighting erupted to the south west and south east of Bentiu (with some fighting also to the north), and in the following days Government Forces claimed to have taken substantial areas from SPLM/A-IO Forces. The SPLM/A-IO later admitted that they had withdrawn from these areas. It is the understanding of the JTC that sporadic fighting continues to the south of Bentiu.

From 27 April the MVT was denied Freedom of Movement by Government Forces in Bentiu, and was prevented from moving beyond the airfield in Rubkona. These restrictions were also applied to other international agencies. This issue was addressed by the MVT in Bentiu and also by the JTC with the Government Forces headquarters in Juba, but no replies were received.

Reports from other international agencies and information gathered by the MVT from civilian refuges from the fighting in Rubkona and Mayom Counties suggest that significant abuses could have been committed by Government Forces troops, including the killing of civilians, burning of houses, theft of cattle and rape. However, it will not be possible to fully investigate these allegations until the MVT has the Freedom of Movement to be able to do so.

It is the clear opinion of the JTC that Government Forces violated Articles 1 and 7 of the COHA by undertaking deliberate offensive military operations south of Bentiu, and also by restricting the Freedom of Movement of the MVT. The JTC is very concerned that during the fighting violations of Articles 3 and 4 might have taken place as the evidence suggests that civilians were not protected and humanitarian access denied, but further investigation is required in order to verify this.



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INVESTIGATIONS INTO VIOLATIONS OF THE CESSATION OF HOSTILITIES AGREEMENT IN UNITY STATE

1.0 Introduction

1.1 Background:

- During late March and continuing into April a build-up of Government Forces was witnessed in the Bentiu area. Tensions had been high for some time, and in fact there had been an outbreak of fighting initiated by Government Forces to the south of Bentiu on 23 and 24 March (JTC Report V037).
- There were persistent rumours of a Government Forces offensive planned to take place before the wet season.

1.2 Incidents: On 27 April Government Forces started offensive operations to the south of Bentiu, with some sort of operation to the north. At the same time all Freedom of Movement – except to the airfield – was denied by Government Forces to the MVT based in the UNMISS camp near Bentiu.

1.3 Aim: The aim of this report is to provide IGAD Special Envoys with a summary of the incidents that took place in Unity State from 27 April, and to apportion responsibility for violations of the COHA where appropriate.

1.4 Methodology:

- The MVT based in the UNMISS Camp near Bentiu monitors the situation in Unity State very closely, through contacts with Government Forces, SPLM/A-IO Forces, local authorities, UNMISS and other international agencies and local people. As soon as the fighting started they used all their contacts to follow what was happening; they also interviewed refugees from the fighting
- On 4 May the JTC wrote to the Director of Operations of the SPLA in Juba complaining that the MVT in Bentiu was denied Freedom of Movement and asking that this issue be resolved. On 5 May the MVT in Unity State wrote a formal letter to 4th Division Government Forces on the same subject asking for an answer by 7 May. The team also spoke to the Acting Governor. There was no reply from either by 8 May, and on that date the MVT submitted its final Investigation and Verification Report.



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2.0 Violations of COHA UNITY STATE

2.1 March/April 2015:

- The MVT received reports from local sources that Government Forces were preparing to attack SPLM/A-IO Forces as early as March. As already stated there was an outbreak of hostilities on 23 and 24 March (V037), after which Government Forces returned to their barracks.
- The MVT observed a build-up of Government Forces. Many heavy weapons were flown in, including artillery pieces, mortars and a variety of armoured vehicles. There were also reports of an increase in troop numbers through both reinforcement from other areas and training.
- The Government Forces Sector Commander visited 4th Division, and then from 24 April the MVT observed troops marching south from Rubkona.

2.2 27 April:

- At about 08.30 on 27 April the MVT heard heavy firing to the south. It later became apparent that Government Forces based in Rubkona had advanced south west towards Nhialdu and south east towards Guit, and forces in Wang Kai (Mayom County) advanced south towards the villages of Wichok and Ngop. There was reportedly some fighting to the north as well.
- When the MVT tried to get into Rubkona to get information about the situation they were stopped at the Government Forces 'Checkpoint Charlie' which is by the airfield only about 2.7 Km from the UNMISS camp. The MVT were not allowed past this point, and therefore unable to visit 4th Division HQ or Bentiu itself. This restriction was also applied to other agencies and civilians, particularly those from the UNMISS POC camp.

2.3 27 – 30 April:

- The MVT learnt that the Government Forces – under the overall control of 4th Division commanded by MG Tayib Gatluak Tai – were commanded as follows:
 - The advance to Guit: BG Stephen Thiey.
 - The advance to Nhialdu: MG Mayik Machar.
 - The advance south of Wang Kai: MG Matthew Puljang (Deputy Commander 4th Division)
 - Government Forces troops north of Bentiu: BG Kerbino Ruai.



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- There was some fighting to the north of Bentiu, and reports suggested BG Kerbino Ruai was wounded in an ambush. There was little information about what happened in the north, but it is understood that after fighting in the Lalob area Government Forces returned to their positions in the oilfields.
- It was understood that by 30 April Government Forces controlled Nhialdhu in Rubkona County and the town of Guit in Guit County.

2.4 1 May:

- On 1 May the Unity State Security Advisor was reported in the press as claiming that the “offensive” launched by Government Forces had resulted in the recapture of Nhialdhu and other areas in Mayom County. At the same time local chefs were reported as claiming that atrocities had been committed against civilians by Government Forces in the areas where the fighting took place.
- The MVT was able to speak to both sides. BG Obuur, the Deputy Commander (Administration) for 4th Division claimed that both Guit and Nhialdiu were under Government Control, and this was confirmed by the SPLM/A-IO commander in Koch County, Capt Georges Gatloi. BG Obuur stated that the objective of the operation was to push the SPLM/A-IO back from Bentiu before the rainy season.

2.5 2 May – 8 May:

- The MVT continued to monitor the situation. Government Forces continued to deny them any movement beyond the checkpoint by the airfield.
- On 4 May JTC wrote to the SPLA Director of Operations in Juba about the Freedom of Movement issue, stating clearly that this was in breach of both the COHA and SOMA, and that the MVT had a duty to investigate allegations of violations of the COHA in the areas where there had been fighting. No reply was received.
- On 5 May the MVT met with the Acting Governor of Unity State, Peter Gatkuoth Chuol, and other state officials. The Acting Governor claimed that the SPLM/A-IO Forces had attacked from both the north and south on 27 April, and that Government Forces were following them up having beaten them off. The MVT requested to be able to visit the areas affected by the fighting in order to investigate allegations of COHA violations, but were told that this could only be approved by the government in Juba. The MVT also sent a formal letter to the Commander of 4th Division asking to visit the areas affected by the fighting in order to investigate alleged violations.
- On 6 May the MVT visited the POC camp and interviewed refugees from the fighting in Rubkona and Mayom Counties. They met 9 families and were told of



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civilians (including women and children) who had been killed, houses burnt and cattle stolen. One witness said she had seen the killing of 6 civilians by Government Soldiers (3 men, 2 girls and a child); another said all the villages by Nhialdiu had been burnt and she had seen 5 people killed.

- The MVT found that it is apparent only women and children have been allowed safe passage by Government Forces to the UNMISS POC Camp. Men and boys over 10 – and allegedly some adolescent girls – have been detained and their fate not known.

2.6 **Assessment:**

- It is the assessment of the JTC that the fighting to the south of Bentiu which started on 27 April 2015 was the result of deliberate offensive operations by Government Forces, and constitutes a clear violation of the COHA.
- The denial of Freedom of Movement to the MVT also constitutes a clear violation of not only the COHA but also the SOMA. Under these agreements it is the clear duty of both Parties to allow the MVT access to all areas in order that alleged violations can be investigated and reported.
- It is the further assessment of the JTC that it is likely that serious violations of the COHA concerning protection of civilians and humanitarian access have been committed in the areas where the fighting took place, but these cannot be investigated until Government Forces restore Freedom of Movement to the MVT.

3.0 **Conclusion**

3.1 As a result of investigations, and the weight of evidence collated it is the opinion of the JTC that Government Forces violated the following articles of the Cessation of Hostilities Agreement (COHA), 23 January 2014 in Unity State starting on 27 April 2015:

- 1.1 The Parties hereby agree to cease all military actions aimed at each other.
- 7.2.a. The MVT shall enjoy freedom of movement and unhindered access.

3.2 Recommendations and observations:

- The JTC recommends that the Special Envoys take immediate and robust action to stop any further offensive action by Government Forces in Unity State, and that they respect all provisions for the Protection of Civilians and Humanitarian Access guaranteed by the COHA in those areas they occupy which were previously under control of the SPLM/A-IO.



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- The JTC strongly recommends that the Special Envoys do all in their power to get Government Forces to allow the Bentiu MVT the Freedom of Movement guaranteed by the COHA and the SOMA in order that allegations of COHA violations can be fully investigated.
- The JTC is very concerned about the fate of civilians caught up in the fighting. Initial witness statements, allegations made and information received from other sources suggest there could have been significant violations of Articles 3 and 4 of the COHA and relevant international laws and protocols, and investigation of what happened in the areas affected by the fighting will be a priority for the JTC.

