

IGAD JTC MVM

INTERGOVERNMENTAL AUTHORITY
ON DEVELOPMENT

AUTORITÉ INTERGOUVERNEMENTALE
POUR LE DÉVELOPPEMENT



TO: Special Envoys to South Sudan
FROM: Chairman, Joint Technical Committee, Monitoring and Verification Mechanism,
Juba, South Sudan
DATE: 05 June 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 Malakal Upper Nile State on 28 May 2015.

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



IGAD CONFIDENTIAL (HIGHLY SENSITIVE)

IGAD JTC MVM

**IGAD CONFIDENTIAL (HIGHLY SENSITIVE) REPORTS ARE NOT FOR REPRODUCTION OR
ONWARD DISTRIBUTION WITHOUT THE AUTHORITY OF THE CHAIRMAN JTC**

JOINT TECHNICAL COMMITTEE (JTC)

**INVESTIGATIONS INTO VIOLATIONS OF THE CESSATION OF
HOSTILITIES AGREEMENT IN MALAKAL, UPPER NILE STATE**

(V041)

PRESENTED TO:

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

05 June 2015



IGAD CONFIDENTIAL (HIGHLY SENSITIVE)

IGAD JTC MVM

Executive Summary

Following the re-taking of Malakal from the SPLM/A-IO and allied forces on 25/26 May 2015, Government Forces re-occupied the town and surrounding area. On 28 May 2015 Government Forces troops in Malakal started firing sporadically towards the UNMISS compound and POC sites. The firing lasted for two hours, and one UNMISS officer and at least 3 civilians in the POC site were injured.

The MVT based in Malakal could find no evidence to suggest there were any SPLM/A-IO or allied troops in the area at the time of the shooting, and there was no reason for the Government Forces to be shooting.

It is the opinion of the JTC that by firing towards the UNMISS compound and POC sites Government Forces were in clear violation of not only the COHA but also International Humanitarian Law, and that Government Forces have a clear duty to investigate the incident and take the appropriate action.



IGAD JTC MVM

INVESTIGATIONS INTO VIOLATIONS OF THE CESSATION OF HOSTILITIES AGREEMENT IN MALAKAL, UPPER NILE STATE

1.0 Introduction

- 1.1 Background: On 15/16 May SPLM/A-IO Forces and allied militia loyal to Major General Johnson Olony took Malakal from Government Forces and occupied it. On 25/26 May Government Forces re-took the town and surrounding area.
- 1.2 Incident: On 28 May there was sporadic firing by Government Forces soldiers towards the UNMISS Compound and POC site, during which at least three civilians in the POC Site and an UNMISS officer were injured.
- 1.3 Aim: The aim of this report is to provide IGAD Special Envoys with a summary of the incident that took place in Malakal on 28 May 2015, and to attribute responsibility for violations of the COHA where appropriate.
- 1.4 Methodology:
- The MVT based in the UNMISS Compound at Malakal were in a position to hear and observe what was going on throughout the incident on 28 May and initiated an investigation the following day.
 - The MVT interviewed witnesses – including some of those injured and POC community leaders– on the day after the incident, and later they got an appointment with and interviewed the Government Forces commander. Other international agencies were also consulted. The team submitted an initial Investigation and Verification report to JTC on 30 May. This was followed by a supplemental report in response to JTC questions on 3 June.

2.0 Violations of COHA in MALAKAL, UPPER NILE STATE on 28 May 2015

2.1 Shooting by Government Forces towards the UNMISS compound 15-17.00 Hrs:

- At about 15.00 Hrs on 28 May Government Forces troops in the area of the checkpoint on China Road (about 500m from the UNMISS compound) started firing sporadically into the air and towards the UNMISS compound. One member of UNMISS (an Indian Lieutenant Colonel) was injured in the UNMISS compound and at least 3 civilians in the POC sites. The firing lasted until about 17.00 Hrs.
- The shooting appeared to be randomly aimed in the direction of the UNMISS compound and POC sites. The Indian UNMISS officer was hit by a bullet that came

4



IGAD JTC MVM

through the window of his room. One of the victims in POC 4 site was hit in the leg whilst walking to the ablution facilities; she reported that the firing caused panic in the site. An officer from the Rwandan UNMISS battalion reported many bullets passing by and through the Rwandan lines to impact in the POC site.

2.2 Interview with Government Forces commander:

- The Government Forces commander in Malakal, Brigadier Manyiel Dut Yak, acknowledged that the firing had taken place, and blamed confusion caused by the supposed presence of militia forces loyal to Major General Johnson Olony and allied to the SPLM/A-IO. He said that following the incident the Government Forces troops involved were replaced by those from a Republican Guard unit (Tiger Brigade).
- There was no suggestion by Brigadier Manyiel Dut Yak that there was to be any investigation into the incident, or that there had been any disciplinary action taken against those involved

2.3 Causes of the shooting:

- The MVT was unable to discover exactly what led to the shooting. Several of the witnesses interviewed suggested it could have been because the Government Forces troops had tried to buy food and cigarettes from by the UNMISS Echo gate and felt they had been cheated and became angry.
- Contrary to what was said by the Government Forces commander, the MVT could find no evidence to suggest there were any SPLM/A-IO allied militia forces remaining in Malakal at the time of the incident.

2.4 **Assessment:**

- The shooting went on for about two hours, and was therefore deliberate rather than the result of an accident or the actions of an individual.
- A large number of bullets impacted in the UNMISS base and POC site, and there were casualties. Whatever the reasons for the shooting it is clear that Government Forces soldiers fired towards the UNMISS compound and the civilians under the protection of UNMISS in the POC sites without any thought for the consequences.
- There is no evidence to suggest there were any SPLM/A-IO or allied militia forces in the area at the time, and the shooting can therefore not in any way be considered as crossfire.
- It is the assessment of the JTC that Government Forces were in clear violation of the COHA and International Humanitarian Law, in that they displayed a complete



IGAD JTC MVM

disregard for the safety and protection of civilians by firing wildly towards an area where they knew there was a large concentration of IDP's and international peacekeepers. The JTC has been advised that Government Forces are also in violation of their own Rules and Regulations, specifically Section 48.

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 article of the Cessation of Hostilities Agreement (COHA), 23 January 2014 in Malakal Upper Nile State on 28 May 2015.

- 3.1 The Parties shall refrain from attacks on the civilian population....

3.2 Recommendations and observations:

- The JTC strongly recommends that the Special Envoys insist that Government Forces investigate this incident and take appropriate measures against those responsible.
- The JTC further recommends that the Special Envoys remind both Parties in the strongest terms of their obligations under the COHA and accepted international laws and conventions to protect civilians, and that military commanders at all levels are held accountable for the conduct of the forces under their command.

