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TO: Special Envoys to South Sudan

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

DATE: 17 October 2015

SUBJECT: Report on Violations of the Permanent Ceasefire

Your Excellencies,

Please find attached the Joint Technical Committee (JTC) report on violations of the Permanent Ceasefire and Transitional Security Arrangements (Chapter II of The Agreement on the Resolution of the Conflict in the Republic of South Sudan 26 August 2015) which took place in Upper Nile State on 27 September 2015.

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



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JOINT TECHNICAL COMMITTEE (JTC)

**INVESTIGATIONS INTO VIOLATIONS OF THE PERMANENT CEASEFIRE IN GUIT COUNTY,
UNITY STATE
(V050)**

PRESENTED TO:

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

17 October 2015



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Executive Summary

On 30 September 2015 the MVT based in Malakal received a complaint from the SPLM/A-IO Commissioner in Wau Shilluk that on 27 September several civilians working in their fields had been killed by Government Forces in the area of Lelo, which is on the west bank of the Nile opposite Malakal in Malakal County Upper Nile State.

The MVT began an investigation immediately and spoke to the Government Forces divisional commander based in Malakal. On 14 October the MVT was able to visit Wau Shilluk and interview local leaders and one eyewitness who had been injured in the incident.

Whilst it is impossible to exclude the possibility that SPLM/A-IO Forces were involved, it is clear that the incident took place as a result of patrolling by Government Forces which is in itself against both the word and the spirit of the Permanent Ceasefire and Transitional Security Arrangements (PCTSA).

There is also no doubt that two people were killed and one injured during the incident. One of those killed was a woman. The Government Forces involved failed in their duty under the PCTSA to protect civilians.

It is the opinion of the JTC that Government Forces violated the PCTSA in the Lelo area on 27 September 2015.



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INVESTIGATIONS INTO VIOLATIONS OF THE PERMANENT CEASEFIRE

1.0 Introduction

- 1.1 Background: Even since the signing of The Agreement on the Resolution of the Conflict in the Republic of South Sudan in August tensions have remained high between Government Forces based in Malakal and SPLM/A-IO Forces on the west bank of the Nile. The last Violation Report submitted by the JTC concerning incidents in the area was V048 about an attack by Government Forces helicopters against SPLM/A-IO positions on the west bank of the Nile on 2 September. Since then there have been several reports of sporadic shelling and some gunfire.
- 1.2 Incident: On 27 September a Government Forces patrol was in the area of Lelo. There was some sort of engagement: according to Government Forces they were attacked by SPLM/A-IO Forces although there has been no corroboration of this. In the engagement two people working in their fields were killed (one of whom was a woman) and another man injured.
- 1.3 Aim: The purpose of this report is to provide IGAD Special Envoys with a summary of the incident that took place in the area of Lelo in Malakal County, Upper Nile State on 27 September 2013 and to attribute responsibility for violations of the PCTSA where appropriate.
- 1.4 Methodology:
- On 30 September 2015 the MVT based in Malakal were contacted by Mr Stephen Aban, the SPLM/A-IO Commissioner based in Wau Shilluk, who complained that Government Forces had attacked people working in their fields in the area of Lelo killing two (including a woman) and injuring one. The MVT immediately reported this to the JTC and instigated an investigation. They arranged a meeting with the acting Government Forces 2 Division Commander in Malakal on 1 October to get his version of events.
 - Following coordination with UNMISS, the MVT visited Wau Shilluk on 14 October and were able to meet with the local authorities, including the SPLM/A-IO commander. They also interviewed the man injured during the incident who was in the hospital at Wau Shilluk.



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- The MVT submitted a report to JTC on 15 October 2015.

2.0 Violations of the Permanent Ceasefire in Unity State on 13 September 2015

2.1 A summary of the information gathered by the MVT based in Malakal is as follows:

- When interviewed by the MVT on 1 October the acting Government Forces 2 Division Commander, Major General Kisikia Ruet Puot, stated that some of his troops had been engaged on “reconnaissance duties” in the Lelo area on 27 September when they came under attack from SPLM/A-IO Forces who they repulsed. He denied that any civilians had been hurt during the fighting, although he admitted an “old man” had been arrested then handed over to UN Human Rights personnel in Malakal following interrogation.
- SPLM/A-IO sources remained adamant that Government Forces had been involved in an aggressive action which resulted in the deaths of two civilians, including a woman, and one serious injury. They also claimed that the Government Forces involved had taken charcoal, crops and animals. During their visit to Wau Shilluk the MVT was able to interview Brigadier Obaj Nyijok, the local SPLM/A-IO commander. The names of those killed were given as a woman called Nyakan Tin Bol and a man called Nyakang Olwak Akol.
- The SPLM/A-IO commissioner in Wau Shilluk stated that SPLM/A-IO forces had not been involved in the incident. When asked if SPLM/A-IO soldiers could have defended the farmers, he said that had they been involved there would have been no looting by Government Forces. He also said that SPLM/A-IO forces were scared of Government attack helicopters.
- The story given by the man who had been injured was similar to that given by the local authorities. He was called [REDACTED] and the MVT interviewed him in the hospital. He had sustained a bullet wound to the chest. He stated he was working in the field with two colleagues when Government Forces soldiers attacked them injuring him and killing his colleagues (he named the woman and the man the MVT had already been told as being killed). He further stated that his relatives told him that the Government Soldiers had taken foodstuffs, charcoal and animals.



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2.2 Assessment:

- Although there is no corroboratory information to support the Government Forces claim that they were engaged by SPLM/A-IO Forces, it is not possible to confirm that this did not happen. However, in the light of the evidence available the JTC finds it very unlikely.
- The two most important facts concerning this incident are:
 - The Government Forces involved in the incident were engaged with “reconnaissance duties” (IE patrolling activities), as was freely admitted by the acting commander of 2 Division. Active patrolling implies military operations in violation of both the spirit and word of the PCTSA.
 - One of the people killed was a woman. This fact in itself demonstrates at the very least a failure to protect civilians, even if the Government Forces patrol mistook the two male casualties for combatants. The Government Forces also admitted to having arrested an “old man” – IE someone unlikely to be a combatant.
- Reports stating that the Government Forces involved looted crops, charcoal and animals cannot be confirmed, but if true could this suggest a motive for aggressive action.
- It is the opinion of the JTC that the balance of evidence indicates that Government Forces were responsible for violating the PCTSA near Lelo on 27 September by allowing patrols into areas where there could be military confrontation, and that the subsequent death of at least one non-combatant – a woman – and the two further casualties (who all the evidence suggests were non-combatants) are the direct result of the action of Government Forces.

3.0 **Conclusion**

- 3.1 As a result of this investigation and the weight of evidence collated, it is the opinion of the JTC that Government Forces violated the following provisions of the Permanent Ceasefire:



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- 1.2 The GRSS and SPLM/A-IO shall disseminate the provisions of this Agreement to all forces under their command or influence, and allies, ***to ensure compliance immediately upon signing.***
 - 1.4 Within seventy two (72) hours of the signing of this agreement, the Parties shall embark on a series of Permanent Ceasefire Arrangements including Cessation of Hostilities, disengagement and withdrawal of forces.....
 - 1.6 The GRSS and SPLM/A-IO shall refrain from prohibited actions under the Cessation of Hostilities Agreement of 23 January 2015
- 3.2 The articles of the COHA violated by Government Forces were Articles 1 and 3, particularly:
- 1.1 The Parties hereby agree to cease all military actions aimed at each other and any other action that may undermine the peace process.
 - 3.1 The Parties will refrain from attacks on the civilian population....
 - 3.3 The Parties shall not engage in any acts of violence against children, girls, women and the elderly.....
- 4.0 **Recommendations and observations:**
- The JTC recommends that the Special Envoys impress upon the leadership of the Government Forces the importance of promulgating and enforcing all provisions of the PCTSA. The fact that Government Forces freely admitted they had been involved in “reconnaissance duties” suggests they either do not understand the PCTSA or they are unwilling to comply with it.
 - Incidents such as the one that took place near Lelo on 27 September and which resulted in two people including a woman losing their lives would not happen if both Parties complied with the PCTSA and kept their forces in place and separated.
 - The JTC further recommends that both Parties are reminded of their responsibilities under the Geneva Convention (or which the Republic of South Sudan is a signatory), especially those protocols that specifically prohibits attacks against civilians.

