

**Security Council**

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**Letter dated 13 June 2012 from the Chargé d'affaires a.i. of the
Permanent Mission of South Sudan to the United Nations
addressed to the President of the Security Council**

With regard to the mandate of the United Nations Mission in South Sudan, please find enclosed a letter from Mr. Riek Machar Teny, Vice-President of the Republic of South Sudan (see annex). This letter is a replacement for the letter dated 6 June 2012 on the same matter.

I would be most grateful if the present letter and its annex could be circulated as a replacement letter to the members of the Security Council as the final document on the matter.

(Signed) Francis **Nazario**
Ambassador
Deputy Permanent Representative
Chargé d'affaires a.i.



**Annex to the letter dated 13 June 2012 from the Chargé
d'affaires a.i. of the Permanent Mission of South Sudan to the
United Nations addressed to the President of the Security Council**

**Re: Renewal of Security Council resolution 1996 (2011) establishing the
United Nations Mission in South Sudan/Chapter VII mandate**

I first wish to convey to you the greetings and salutations of my President, Salva Kiir Mayardit, as we approach the one-year anniversary of the independence of the Republic of South Sudan and mark the existence of the United Nations Mission in South Sudan (UNMISS).

On 6 June 2012, I wrote a letter on the above-mentioned topic and other issues, which was misaddressed to your predecessor. I am sorry for this. The other issues which I discussed in that letter have now been resolved between me and Ms. Hilde Johnson, the Special Representative of the Secretary-General, as these issues fall within the competence of the head of Mission. In addition, I wish to state that since the establishment of UNMISS, the Mission has been able to support and contribute towards the realization of peace and security in our country. My Government acknowledges with appreciation the partnership which has enhanced our efforts to build a nation.

Recognizing that the Security Council will discuss the renewal of the mandate of UNMISS, as stipulated in resolution 1996 (2011), my Government conducted an internal review of the performance of the Mission in relation to its mandate (see enclosure). This review has highlighted a number of areas where collaboration between the Republic of South Sudan and UNMISS has been positive. This includes support in the areas of disarmament, demobilization and reintegration, human rights legislation, capacity-building and law enforcement. Notably, the Mission also provided valuable support to the Republic of South Sudan throughout the intercommunal violence in Jonglei state in December and January 2011 and subsequently provided strong logistical support to the Presidential Committee for Peace, Reconciliation and Tolerance in Jonglei. This review is under discussion between the Mission and us.

Notwithstanding the positive role that the Mission has played in the aforementioned areas, the Republic of South Sudan would like to highlight the inappropriateness of the mandate in its current form. On 8 July 2011, in establishing the mandate under Chapter VII, the Security Council determined that "the situation faced by South Sudan continues to constitute a threat to international peace and security in the region". This determination was made before the independence of the Republic of South Sudan. Since independence, the Republic of South Sudan has taken responsibility for the safety and security of our citizens. The continued principal threats to international peace and security in the region are the outstanding Comprehensive Peace Agreement issues and the tensions with the Republic of Sudan, in particular their continued military aggression against South Sudan, including repeated bombings. Therefore, it is our view that the situation according to which the determination for Chapter VII was made has since progressed and it is no longer appropriate to renew the mandate on the basis of Chapter VII.

In view of the above, my Government would like for our position to be taken into serious consideration during the debate on the renewal of the mandate.

Kindly circulate the present letter to the members of the Security Council as a document of the Council.

(Signed) Riek Machar **Teny-Dhurgon**
Vice-President, Republic of South Sudan
Co-Chair of the Joint Mechanism of the UNMISS Mandate

Enclosure

Evaluation report on the UNMISS mandate (Security Council resolution 1996 (2011)) from July 2011 to July 2012 by the Government of the Republic of South Sudan

Executive Summary

This report reviews progress made to date under the UN Security Council Resolution 1996 (2011) of July 8th 2011, and makes recommendations for a possible renewal of the UNMISS mandate. In line with recommendations coming out of the initial review process, the Government established a Technical Assessment and Evaluation Unit to support its Ministerial Team in the Joint Mechanism of the UNMISS mandate. The present report has been compiled by this Technical unit, and includes contributions from the Government institutions concerned with the current mandate of UNMISS.

The report first lists the achievements in terms of cooperation with and support from UNMISS over the period of the current mandate (July 2011 – present), it then notes the key challenges and areas for improvement that were raised by the concerned Government agencies. Considering the areas in which UNMISS has demonstrated good progress under the current mandate, and areas where it has not, the report goes on to make specific recommendations for the process of mandate renewal in July 2012.

The evaluation has shown that the Government of the Republic of South Sudan has achieved its obligations in the following key areas; 1) Political Development, including constituting of the National and State Legislature, the formation of the Government of the Republic of South Sudan at national and State Government level and in achieving political inclusiveness.

The Government with support from UNMISS has made significant achievements in the following areas; 1) Peace-Building, including improvement in the Human Rights situation, strengthening of the Peace Commission, mitigation of conflicts and inter-communal violence, moving forward with disarmament, demobilization and reintegration, and achieving community security and small arms control; and 2) State-Building. However, UNMISS had a negligible contribution in Economic Development throughout the mandate period and its transparency and accountability was remarkably questioned across the country.

The principal challenges that have emerged through this assessment and evaluation have been UNMISS failure in the areas of protection of civilians, delivery of basic physical infrastructure such as quick impact projects (namely airfields, bridges, roads and community centers), communication and coordination, transparency and accountability.

Drawing on the achievements and challenges identified in the course of this assessment and evaluation review, the final section of this report outlines the following specific recommendations:

1. UNMISS should improve its outreach program of its scope and mandate, relationship, coordination and communication with relevant Government institutions at national, State and local government levels to help South Sudan fulfill its state-building and peace-building obligations.
2. The Government after its review of the UNMISS performance for the past one year period from July 2011 to date is resolved to seek UN Security Council members for consideration of recommended changes and specifically to Chapter VII.
3. It is clear that many of the functions under the current mandate, such as institutional capacity development aspects of the mandate, can be undertaken by the existing UN Specialized Agencies and other bilateral donors.
4. UNMISS during its mandate has contributed negatively in the economy of the Republic of South Sudan, it is unfortunately observed that the UNMISS maintain its accounts outside the country and feed the black market through sale of its hard currency financial transfers.
5. The Status of Forces Agreement (SOFA) should be renegotiated including the composition, size and downsizing of such forces.
6. This Assessment and Evaluation review report should be shared with the UN Security Council in its sitting for discussion of UNMISS due mandate and to lobby directly with the permanent Security Council members on a revision of the UNMISS mandate.

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1. Introduction

This report reviews progress made to date under the UN Security Council Resolution 1996 (2011) of July 8th 2011, and makes recommendations for a possible renewal of the UNMISS mandate. The evaluation has been carried out by the Technical unit of the Ministerial Team of the Joint Mechanism for UN Mandate. The Technical unit has considered the reports of several Ministries, Commissions, and independent institutions that are engaged with the UNMISS mandate. The evaluation focuses on the level of UNMISS cooperation and support to the GRSS during the period July 2011-July 2012, as stipulated in UN Security Council Resolution 1996 (2011). This evaluation report aims at evaluating the achievements and challenges under the current UNMISS mandate with an aim to seek a revision of the mandate when it is renewed.

In adopting SCR 1996 (2011), the UN Security Council determined that the situation faced by South Sudan continued to constitute a threat to international peace and security in the region. Acting under Chapter VII of the UN Charter, the Security Council established UNMISS for an initial period of one year, starting from 8 July 2011, with the intention to renew the UNMISS mandate for further periods as may be required. The UNMISS mandate will be up for renewal on 8 July, 2012.

The current UNMISS mandate is wide-ranging, covering state-building and economic development, Governance and rule of law capacities, as well as peace-building and civil protection. The current mandate authorizes UNMISS to: 1) support peace consolidation, thereby fostering conditions for longer-term state-building and economic development; 2) support the Government in exercising its responsibilities for conflict prevention, mitigation, and resolution and its responsibilities to protect civilians, and 3) support the Government to develop its capacity to provide security, establish rule of law, and strengthen the security and justice sectors.

2. Achievements.

The Government of the Republic of South Sudan has made the following achievements during the UNMISS mandate from July 2011 to date:

2. a. Political Development

- The people of South Sudan overwhelmingly voted 98.99 for secession and declared its Independence on the 9th July 2011.
- The new State of South Sudan established national legislature institutions,
- The Republic of South Sudan took serious measures to ensure accountability and transparency.

- The Republic of South Sudan has been engaged in mitigation of conflicts and inter-communal violence to ensure peace and stability for socio- economic development.

2. a. i. National Legislature

- The President issued a decree transforming and reconstituting the National Legislature and State Legislatures,
- The President following consultations with political parties appointed members of the National Constitutional Review Commission. Of the total of 45 members, different political parties were represented, Faith based groups, and Civil Society Organizations were significantly represented.

2. a. ii. Formation of the Government of the Republic of South Sudan.

- The President Gen.Salva Kiir Mayardit issued a decree appointing the 1st Cabinet members of the new State composed of 29 ministers and 32 deputies.
- The President confirmed the respective Governors of the 10 States who have formed their State respective governments and the counties commissioners.
- The President appointed Chairpersons of Commissions and Independent Institutions.

2. a. iii. Political Inclusiveness.

- The President after consultation with Political Parties Leaders in the Political Parties Leadership Forum shared power with the political parties at national, State and local government levels in the first cabinet of the independent Republic of South Sudan in late. August 2011.
- The Transitional Constitution provided political plat-form for the recent political parties' consensus on Political Parties Bill 2012 that has now been enacted into Political Parties Act which requires parties to register within 90 days of formation of Political Parties Council.

2. b. Peace-Building.

The Government of the Republic of South Sudan ministries, Commissions and Independent institutions in collaboration with UNMISS has achieved the following:

2. b. i. Human Rights

- Supported with a series of workshops and trainings and seminars to civil society organizations and Human Rights Officers to build capacities.
 - Developed the Human Rights Commission policy framework and strategic plans;
 - Established Human Rights Commission offices in all the 10 States and in more than half of the 79 counties across the country;
 - Held sensitization workshops and Human Rights Officers' capacity building in Juba and at the State level;
 - Human Rights Commission conducted facts -finding visits which continued until early February 2012 on Jonglei inter-communal violence.
- The Government of the Republic of South Sudan, following the crisis of Jonglei, appointed an investigation committee to investigate the violence, which is soon to commence its work.

2. b. ii. Peace Commission

- Consolidated peace and reconciliation at the State, counties and Payams level.
- Enabled women's participation in the Jonglei peace process together with UN Women
- Participated in the peace and reconciliation process in Jonglei State;
- The Vice President's movement for inter-communal peace-building meetings in the four States of Lakes, Unity, Warrap, and Jonglei.

2. b. iii. Conflicts and Inter-Communal Violence

- The Government of the Republic of South Sudan with support of UNMISS formed a Peace and Reconciliation Committee following the inter-communal violence in Jonglei State in December 2011.
- Conducted a peaceful disarmament campaign following the inter-communal violence in Jonglei State.

- Coordinated intervention during the Jonglei inter-communal violence in early December 2011;
- Provides logistical support to SPLA deployments into Jonglei State. Provided support to UNMISS by making its own helicopters available to airlift UNMISS equipment into Jonglei State
- Provided logistical support in efforts to resolve the recent inter-communal violence in Jonglei State;
- Support from UNMISS, OCHA during the Inter-communal violence in Tonj East County in Warrap and Maylandit County in Unity State, in which medical and relief support was availed to the victims of those attacks in February 2012;
- UNMISS support was substantial when it evacuated 180 wounded civilians and 18 humanitarian personnel. Also, up to 3,500 civilians sought refuge in UNMISS military compounds in Pibor and Akobo;

2. b. IV. Disarmament, Demobilization and Reintegration

- Developed and approved a joint DDR Strategic Plan;
- Established the DDR offices in the ten States and completed three prisons facilities in Eastern Equatoria, Jonglei and Warap States.
- Capacity building to the national DDR staff at national and state levels;
- Engaged in facilitation and support to civil disarmament, demobilization of child soldiers, elderly and disabled persons in the SPLA.

2. b. v. Community Security and Small Arms Control

- UNMISS support to Community Security and Small Arms Control through facilitation of sensitization workshops and availing of transitional storage facility for the fire arms collected from the disarmed civil populations in Jonglei.

2. c. State-Building and Economic Development

2. c. i. Transparency and Accountability

- The President issued took series of measures to strengthen the systems for transparency and accountability before and after the independence;
- The enactment of the financial management act 2012;

The appointment of the Constitutional Supreme Court judge to head the Anti-Corruption Commission.

2. c. ii. Law Enforcement and Civil Protection

- UNMISS provided jointly with the Ministry of Interior different levels of training programs to the South Sudan Police Service;
- The civil protection and provision of security across the country has been going through significant changes through the training of the police service by the UNMISS police;
- Following advocacy efforts at the Ministry of Interior, due to several security incidents against international workers, SSPS increased their presence in Juba;
- UNMISS is working with the Ministry of Interior and the SSPS to establish a diplomatic police unit for standby protection for UN staff and foreign diplomats in Juba.

2. c. iii. Governance and Rule of Law

- The Government of the Republic of South Sudan has put in place several laws passed by the National Legislature on Foreign Policy, Human Rights, Social Welfare, Foreign Trade and Investment and many others;
- Formation of national policies in varied areas were some of the important areas of cooperation and support;
- UNMISS facilitated Women's engagement in constitution-making processes.

3. Challenges

3. a. Protection of Civilians

- UNMISS failed to provide protection to the civil populations who were desperate for protection as stipulated in its Chapter VII mandate during aerial bombardment and border incursions by the Republic of Sudan. The recent aerial bombardment by the Republic of Sudan Air Force along the Borders of Unity, Upper Nile, Western Bhar Al- Ghazal and Northern Bhar Al-Ghazal States (Anti-nov Bombers, MIG-16 and Helicopters Gunships) are clear instances of UNMISS lack of capacity to undertake protection of civil populations from an imminent attack.

3. b. Communication and Coordination

- Reports are submitted and shared with other parties without prior verification of facts with the relevant Government agencies;
- UNMISS scope and mandate dissemination has been limited not only at the national level but also at the state and Local government levels;
- Movement of personnel has in the past not been communicated to Government and the security organs, resulting in potentially dangerous situations;
- UNMISS supplies and equipment is not being approved and authorized and given security clearance through the national security bodies;
- Foreigners, including Sudanese, are employed without any consultation with the GRSS security services.

3. c. Infrastructure Development


- UNMISS has contributed little in the area of infrastructure development even in the "quick impacts projects" in its operational sites at the counties level such as police civil protection facilities and community centers;
- The UNMISS with huge administrative budget has hardly spent on permanent construction facilities and accessible roads at national, State and local government levels;
- Infrastructure support is needed in terms of training centers in the States.

3. d. Rule of Law and Law Enforcement

- There is need for greater support in capacity building for judges and legal councilors;
- Staff get training periods need to be increased so that more benefit staff;
- There should be improvement of joint monitoring, particularly on cattle rustling;
- South Sudan Police who have been trained through UNMISS need to be accredited for international recognition;
- More assistance is needed in the development and implementation of the internal accountability process.

4. Conclusions and recommendations

The Status of Forces Agreement (SOFA) should be renegotiated. At the time of the SOFA agreement there was no legal department in a position to review the agreement. Now that there is, SOFA should be reviewed. The deployment of forces should be well coordinated with the Government and relevant security organs. Movement of personnel has in the past not been communicated with Government and the security organs, resulting in potentially dangerous situations and this should be addressed through better information sharing. There also needs to be transparency from UNMISS about its employment policy. Foreigners, including Sudanese, are employed and they pose a potential risk to South Sudan. Names of staff proposed for employment should be submitted to the government. Places should be given with preference to qualified RSS nationals and any company from outside the RSS should be formally vetted.


6/6/2012
