

Permanent Mission of the Republic of South Sudan to the United Nations

22 April 2012

H. E. Ms. Susan E. Rice
President of the UN Security Council
Permanent Representative of the United States of America to the United Nations
Permanent Mission of the United States of America to the United Nations
799 UN Plaza
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Madam President, Your Excellency,

On 20 April 2012, H.E. Gen. Salva Kiir Mayardit, President of the Republic of South Sudan (South Sudan), ordered the Sudan People's Liberation Army (SPLA) to withdraw from Panthou (Heglig) within 3 days. I am pleased to confirm that this withdrawal is now complete.

I regret to inform you, however, that the Republic of Sudan (Sudan) has not heeded the United Nations Security Council's (UNSC) clear statement on 12 April calling for its immediate and unconditional cessation of all aerial bombardments on the territory of South Sudan. In the last twenty-four hours, the Sudan has been launching aggressive offensive operations on South Sudan's territory using aerial bombardments and ground attacks. We call on the Sudan to halt all aerial bombardments and ground attacks on the territory of South Sudan. We strongly condemn Sudan for its continuous acts of war and for taking advantage of South Sudan's readiness to maintain peace.

Your Excellency, Sudan Armed Forces (SAF) attacked South Sudan while its SPLA troops were voluntarily complying with the UNSC's request that they immediately and unconditionally withdraw from Panthou (Heglig). We remind the United Nations that South Sudan *only* occupied this disputed area to prevent Sudan from continuing to use it as a launching ground for attacks on civilian areas within South Sudan territory. Nevertheless, as the SPLA withdrew peacefully, Sudan aggressively, and in direct violation of the fundamental principles of the UN Charter, attacked our territory. The number of casualties and damage caused by these new assaults are yet to be determined.

On 20 April 2012, H.E. Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, ordered the SPLA troops to withdraw out of Panthou (Heglig) within the period of 3 days. My Government took this principled decision not because of a real or perceived threat of a military defeat, but *only* because it

does not wish to see a return to war, and it sincerely seeks an immediate resumption of negotiations between the Sudan and South Sudan. My Government has behaved responsibly, and in conformity with the recent Presidential Statement of the UN Security Council. It has done so because it respects the rule of law and has confidence that if it withdrew from Panthou (Heglig), its fellow Member States of the UN would not allow Sudan to benefit from South Sudan's act of peace -- that the international community would not allow civilians to remain vulnerable and unprotected.

Now, just as South Sudan cautioned the UNSC last week, it is clear that Sudan prevailed upon the UNSC to demand the withdrawal of SPLA armed forces from Heglig only to clear a path for itself to launch more brutal attacks on its neighbor. This is now what Sudan is doing, fully unchecked by the international community. Please know that under these circumstances, South Sudan continues to reserve its sovereign right to defend its people and territory. We strongly prefer negotiations and reiterate our requests that the international community take measures to ensure that war remains in our past.

To this end, the Government of the Republic of South Sudan now calls upon the United Nations Security Council to immediately convene, invoke its UN Charter Chapter VII powers, and agree to take all the necessary measures available to ensure an unconditional and immediate cessation of all Sudan's aerial bombardments and acts of aggression within South Sudan's territory.

Your Excellency, the people of South Sudan are looking to the UNSC to bring an end to the threat to peace and international security posed by Sudan's continued indiscriminate attacks on civilians in South Sudan. It is on their behalf that the Government of South Sudan respectfully calls upon the Council to profoundly reconsider its course of action. History has shown that condemnation of Sudan's attacks and mere requests for their cessation will have no impact on Khartoum's decisions unless clear and tangible consequences follow. Absent such consequences, South Sudan, like any Member State of the UN, will have no other recourse than to exercise its sovereign right to defend its territory and carry out its responsibility to protect the physical integrity of its people.

I wish to underline that my Government's decision to withdraw from Panthou is without prejudice to South Sudan's position that Panthou is part of South Sudan, and must be dealt with in the same manner as other contested areas along the shared border. The January 1st 1956 border, which under the terms of the 2005 Comprehensive Peace Agreement is the basis for the North/South border, in fact places Panthou well within the territory of the Republic of South Sudan. It was only in the 1980s, once oil was discovered in the region that successive governments in Khartoum sought to shift the 1956 North/South boundary to place Panthou - which is now known as Heglig - in Sudan, specifically in the Kordofan province, rather than in what is now known as Unity State in the Republic of South Sudan.

We note that in all negotiations related to the demarcation of the borders, including those facilitated by the African Union High Level Implementation Panel (AUHIP), it has always been South Sudan's position that the parties commit to immediate deadlines to demarcate the already delineated areas of the border, and that concurrently the disputed areas be referred to a time-bound international arbitration mechanism. South Sudan has always consistently advocated throughout these processes that Panthou be designated as a disputed area requiring settlement through arbitration -this has been done orally and in written submissions tabled by South Sudanese delegates and shared with the AUHIP.

We reiterate that contrary to what has been widely reported in the media, while the 2009 decision of the Permanent Court of Arbitration placed Panthou (Heglig) outside of the Abyei area, it did not rule on the

border between Sudan and South Sudan. South Sudan accepted, and continues to accept, the PCA ruling as it applies to the Abyei Area. However, the status of Panthou remains undetermined and Sudan's refusal to accept South Sudan's claim does not make it any less disputed.

We call for the uncontested parts of the January 1st, 1956 border to be demarcated, in accordance with the demarcation agreement initialed by the parties in March 2012 that is now ready for final signature. South Sudan, as it was in March, is ready to sign the agreement immediately and to begin work. Panthou (Heglig), and all other disputed areas must be concurrently submitted to international arbitration.

In order to reduce tension and improve security, South Sudan maintains its belief that it is essential for a neutral force, mandated by the UN, to have a presence in the border areas. South Sudan welcomes the decision by the UNSC to support the proposed Joint Border Verification and Monitoring Mechanism (JBVMM) through UNISFA, but it has concerns that the mission's relatively limited mandate may be insufficient for the maintenance of security at the border. We would urge the AUHIP, with the support of the UN and its member states, to consider enhanced mechanisms that would help the parties to implement the agreement on the Safe Demilitarized Border Zone across the entirety of the North/South border.

Recent events also underline the need for an urgent and comprehensive solution to address all the remaining challenges faced by Sudan and South Sudan. Instability could reoccur unless the outstanding issues between Sudan and South Sudan are addressed in a comprehensive manner. We therefore call upon the international community to revise its approach in consultation with the parties and set a clear deadline for the finalization of a comprehensive agreement. We have called for this for many months without acknowledgement. Recent events only emphasize the urgency of our call.

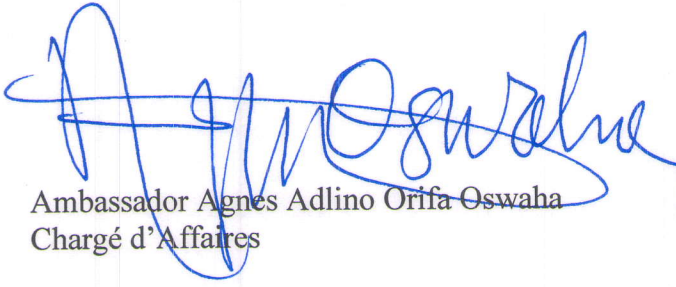
We cannot stress enough the importance of international support for a comprehensive solution. It will not be enough to return to negotiations conducted in a piecemeal fashion, which do not address the root causes of security challenges facing the two states. While reiterating our commitment to the principle of unconditional dialogue with Sudan, we would like to take a pause to engage in some critical review and reflection with our international partners on the current facilitation/mediation mechanism. We believe that a more robust international engagement is required. Ultimately only a renewed and high-profile international effort will lead to a comprehensive agreement and internationally-monitored mechanisms to guarantee their successful implementation.

Your Excellency, Sudan wants to drag us into war. This is not what the international community wants and this is certainly not the future that South Sudan wants for our new nation. A negotiated settlement is obtainable. South Sudan remains committed to the notion of two viable states living side by side in peace, and will work towards a peaceful resolution of all the outstanding issues. We pray that official statements being reported in the press in which President Bashir is still choosing the discourse of aggression rather than peaceful negotiation are exaggerated.

Again, we call upon the UNSC to explore and employ all necessary measures to bring Sudan back to the negotiating table -- not weeks from now, but at this very moment when lives can still be preserved and both parties can demonstrate mutually sincere commitments to implement a meaningful agreement.

I would be most grateful if this letter could be shared with the members of the Security Council.

Please accept, Your Excellency, the assurances of my highest consideration.



Ambassador Agnes Adlino Orifa Oswaha
Chargé d'Affaires

