



# Security Council

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## Benchmarks to assess the arms embargo on South Sudan

### Report of the Secretary-General

#### I. Introduction

1. The present report is submitted pursuant to the letter from the President of the Security Council dated 16 December 2020,<sup>1</sup> in which the Council requested the Secretary-General to provide recommendations on benchmarks to assess the arms embargo on South Sudan.

2. In the preparation of the present report, remote consultations were held with interlocutors at the country and regional levels and in New York. At the country and regional levels, consultations were held with representatives of the Government of South Sudan<sup>2</sup> and members of South Sudanese civil society (including women's groups); the Intergovernmental Authority on Development; the Special Envoy of the Secretary-General for the Horn of Africa; the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism; the reconstituted Joint Monitoring and Evaluation Commission; the United Nations Mission in South Sudan (UNMISS); and members of the diplomatic corps based in Juba. In New York, consultations were held with the members of the Security Council Committee established pursuant to resolution [2206 \(2015\)](#) concerning South Sudan; representatives of the permanent missions of the States of the region;<sup>3</sup> and the Department of Peace Operations (including the Office of Rule of Law and Security Institutions), the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and concerned United Nations agencies, funds and programmes. In addition, the present report benefited from consultations with the Panel of Experts on South Sudan, whose members are home-based.

#### II. Context

3. By its resolution [2428 \(2018\)](#), the Security Council adopted a general arms embargo on South Sudan, a sanctions measure which has since been renewed several

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\* Reissued for technical reasons on 16 April 2021.

<sup>1</sup> [S/2020/1277](#). See also the report of the Secretary-General on the implementation of paragraph 5 of resolution [2521 \(2020\)](#) ([S/2020/1067](#)).

<sup>2</sup> The Minister for Foreign Affairs and International Cooperation, Beatrice Khamisa Wani-Noah, and the Minister of Defence and Veterans Affairs, Angelina Teny.

<sup>3</sup> Eritrea, Ethiopia, and Uganda were consulted. Djibouti and the Sudan were invited but did not take part in the consultation for the present report.



times, most recently until 31 May 2021. In my report ([S/2020/1067](#)), I provided the Council with an assessment of the contribution of the arms embargo to the facilitation and implementation of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, including adherence to the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 21 December 2017 and the ceasefire provisions of the Revitalized Agreement.

4. Consultations of the Secretariat on possible benchmarks to assess the arms embargo were conducted against a backdrop of slow progress in the implementation of the Revitalized Agreement. Since the signing of the Revitalized Agreement on 12 September 2018, implementation of the political commitments contained in its chapter 1 has yet to be completed. In February 2020, the parties formed the Revitalized Transitional Government of National Unity, marking the end of the pre-transitional period. By January 2021, the Revitalized Transitional Government of National Unity had implemented the decision on responsibility-sharing ratios for gubernatorial and State positions,<sup>4</sup> following which governors and deputy governors of the 10 states and chief administrators of the administrative areas were finally appointed.<sup>5</sup> However, the reconstitution of the Transitional National Legislative Assembly and the appointment of the Council of States remain pending. Moreover, progress is outstanding in a number of commitments pertaining to the representation of women, including 35 per cent in the executive branch.<sup>6</sup>

5. In terms of the security sector, the formation, training and redeployment of the necessary unified forces, in accordance with chapter 2 of the Revitalized Agreement, has yet to move forward. The lack of a security strategy, resources and funding has impeded progress in the implementation of the transitional security arrangements, including the proper functioning of the cantonment and training sites. Recent civilian disarmament campaigns have been unsuccessful and resulted in violence, notably in Warrap State in August 2020. Moreover, in the reports on the independent strategic review of UNMISS ([S/2020/1224](#)) and of the Panel of Experts on South Sudan ([S/2020/1141](#)), it was noted that the parties to the conflict had continued to recruit new troops, contrary to the provisions of the Revitalized Agreement. Defections and changes of allegiance among the parties continue to undermine the implementation of the Revitalized Agreement and the permanent ceasefire.

6. While the Cessation of Hostilities Agreement and the permanent ceasefire have been largely respected in most parts of the country, subnational violence has continued to increase.<sup>7</sup> This is due in part to economically motivated violence and criminality but also driven by conflict among national-level political actors. In recent months, subnational violence was registered in the Greater Upper Nile region, the Greater Equatoria region and the Greater Bahr el-Ghazal region.

<sup>4</sup> Reached on 17 June 2020 between the President of South Sudan, Salva Kiir, and the First Vice-President, Riek Machar.

<sup>5</sup> The agreements were reached and the appointments of 8 of the 10 state governors and the chief administrators of Abyei, Pibor and Ruweng were made in June 2020, while the appointment of the Governor of Jonglei was completed in July 2020 and the Governor of Upper Nile in January 2021. By March 2021, state and local government officials for all 10 states had been appointed.

<sup>6</sup> In the Revitalized Agreement, the parties agreed to set quotas of 35 per cent for women's representation in the executive branch and 35 per cent for women's representation in the three transitional justice mechanisms to be established, in addition to including women in various key mechanisms and processes including the Transitional National Legislative Assembly, the Council of States and the National Constitutional Amendment Committee. At present, a woman has been appointed Vice-President, 9 of 35 ministers are women, and 1 out of 10 deputy ministers is a woman, which falls short of the 35 per cent target.

<sup>7</sup> This includes intracommunal and intercommunal violence in certain areas of the country (see [S/2021/172](#), sect. III). See also the report of 4 February 2021 of the Commission on Human Rights in South Sudan ([A/HRC/46/53](#)).

7. Such violence has had a deleterious effect on the efforts of humanitarian workers, who are already grappling with attacks against them, natural disasters, bureaucratic impediments and the coronavirus disease (COVID-19) pandemic. As noted in the report on the independent strategic review of UNMISS (S/2020/1224), the denial of humanitarian access is, at times, part of deliberate strategies by political and military actors to manipulate the distribution of resources. Likewise, UNMISS continues to encounter violations of the status-of-forces agreement, which impede the ability of the Mission to implement its mandate.

8. The continued violence – whether perpetrated by the parties to the Revitalized Agreement, community-based militias or other armed elements involved in subnational violence – has severe consequences for the respect of human rights in South Sudan. Such violence includes arbitrary killings, abductions, sexual and gender-based violence,<sup>8</sup> arbitrary arrests and detention (including proxy detention), torture and ill-treatment, forced military recruitment and the looting and destruction of civilian property. Notwithstanding some steps taken by the Revitalized Transitional Government of National Unity,<sup>9</sup> overall progress relating to transitional justice commitments contained in the Revitalized Agreement has been slow.

### III. Proposed benchmarks

9. In consultations with the Secretariat, interlocutors stressed the importance of the full and effective implementation of the Revitalized Agreement. This perspective is fully in line with paragraph 4 of resolution 2521 (2020), in which the Security Council expressed its intention to review the arms embargo in the light of progress achieved in implementing all provisions of the Revitalized Agreement, and adherence to the Cessation of Hostilities Agreement and the ceasefire provisions of the Revitalized Agreement. The present section outlines three key benchmarks (with 34 specific targets) for the Security Council to assess the arms embargo. These benchmarks may contribute to the implementation of the Revitalized Agreement, the cessation of hostilities and the permanent ceasefire. The benchmarks and related targets set out below should be reviewed to assess their progress, as appropriate.

#### **Benchmark 1: progress on political and governance issues**

10. A benchmark related to progress on political and governance issues, notably in the formation of the transitional government, completion of reform processes and achievement of gender commitments, could contribute to assessing the arms embargo in relation to the consolidation of peace in South Sudan. While there has been progress in the implementation of some elements of chapter 1 of the Revitalized Agreement, other important elements lag behind. Implementation of some of these remaining elements would be a strong indicator of the political commitment of the parties to the State-building and peace consolidation process in South Sudan.

<sup>8</sup> The Security Council has included sexual and gender-based violence as a separate designation criterion for possible sanctions, as set out in paragraph 15 (e) of resolution 2521 (2020), while article 2.1.10.2 of the Revitalized Agreement calls for the cessation of all forms of sexual and gender-based violence.

<sup>9</sup> On 29 January 2021, the Revitalized Transitional Government of National Unity announced that the Ministry of Justice had been instructed to take steps to establish the three transitional justice mechanisms outlined in the Revitalized Agreement. Other examples of steps taken in 2020 on transitional justice, though not specified in the Agreement, included the military trials for conflict-related sexual violence in Yei, the deployment of mobile military courts to Bentiu and the establishment of the Special Court for Sexual and Gender-based Violence and Juveniles in Juba.

11. The first target, at the national level, should be the establishment of the political institutions agreed to in the Revitalized Agreement. This target would be measured by:

- (a) Establishment of the Transitional National Legislature, comprising the Transitional National Legislative Assembly and the Council of States;
- (b) Completion of the formation of state and local institutions of government.

12. The establishment of these institutions with adequate resources would facilitate the legislative work required to translate the commitments in the Revitalized Agreement into reality. It would also enable the national authorities to strengthen the functioning of rule of law institutions at the state and local levels and the extension and provision of services to the population (including access to justice) and contribute to the reduction of subnational violence.

13. The second target should be the completion of key processes specified in the Revitalized Agreement that would enhance the legislative, judicial and governance process in South Sudan. This target would be measured by:

- (a) Incorporation of the Revitalized Agreement into the Transitional Constitution of South Sudan, as well as completion of the permanent constitution-making process;
- (b) Achievement of progress in the reform of the judiciary, namely by the establishment of an ad hoc judicial reform committee, the reconstitution of the Judicial Service Commission and the review of the Judiciary Act;
- (c) Completion of the institutional reforms of key finance institutions, namely the Bank of South Sudan, the Ministry of Finance and Planning, the Anti-Corruption Commission and the National Audit Chamber;
- (d) Establishment and effective functioning of the high-level, competent and effective oversight mechanism that will control revenue collection, budgeting, revenue allocation and expenditure;
- (e) Publicly accessible reporting of all revenues, expenditures, deficits and debts of the Revitalized Transitional Government of National Unity and publication of an annual report that details the Government's financial activities and is made available to the Transitional National Legislative Assembly.

14. Achievement of such reforms could provide assurances on transparency and accountability regarding the fiduciary aspects of the Revitalized Transitional Government of National Unity. The reforms could also help to ensure that the resources of the country (especially revenue from the oil sector) are not being diverted towards expenditures that might continue to fuel the conflict, including at the subnational level.

15. The third target should be the achievement of commitments enshrined in the Revitalized Agreement concerning the representation of women in political institutions and processes. This target would be measured in three ways:

- (a) Achievement of the 35 per cent quota for women's representation in national, state and local government by the Revitalized Transitional Government of National Unity;
- (b) Appointment of a woman to one of three Deputy Speaker positions in the Transitional National Legislative Assembly and a woman to one of two Deputy Speaker positions in the Council of States;
- (c) Inclusion of diverse women's groups in the relevant consultation processes outlined in the Revitalized Agreement.

16. These elements can help to ensure that women's voices are heard in key decision-making bodies and that gender considerations are taken into account in political and governance issues.

**Benchmark 2: progress on disarmament, demobilization and reintegration and security sector reform**

17. A benchmark focused on the security dimensions of the Revitalized Agreement, notably the review and reform of the security sector, transitional security arrangements and the disarmament, demobilization and reintegration process, is relevant to the assessment and adjustment of the arms embargo. Achievement of this benchmark can help to maintain the cessation of hostilities and the permanent ceasefire, contribute to the reform of the security sector and reduce levels of subnational violence.

18. The first target should be the completion of the Strategic Defence and Security Review process contained in the Revitalized Agreement. This target can be measured by the following key elements:

(a) Completion of the security policy framework that clarifies the responsibilities of different bodies and agencies in responding to the assessed security challenges of South Sudan;

(b) Completion of the revised defence policy identifying the specific role and mission of the national army, the national security service and other organized forces;

(c) Analysis of the required operational capabilities of the national army and other security forces to meet the challenges identified;

(d) A white paper on a defence and security sector transformation) road map, approved by the Council of Ministers and the Transitional National Legislative Assembly.

19. The second target should be the completion of the key transitional security arrangement provisions of the Revitalized Agreement. This target can be measured by the following:

(a) An immediate end to the recruitment of security forces;

(b) An immediate end to the recruitment and use of children, and the release of all children from the ranks of the armed forces and their handover to civilian child protection actors;<sup>10</sup>

(c) Development of a redeployment plan for the necessary unified forces graduating from the training centres;

(d) The start of the process to unify the command of the various forces (the South Sudan People's Defence Forces, the Sudan Peoples' Liberation Movement/Army in Opposition and the South Sudan Opposition Alliance);

(e) Training and redeployment of the necessary unified forces;

(f) Allocation by the Government of adequate resources for planning and implementing the redeployment of the necessary unified forces, which should account for the needs of both male and female force members.

<sup>10</sup> The recruitment and use of children is also one of the six grave violations against children contained in the Comprehensive Action Plan to End and Prevent All Grave Violations against Children, signed on 7 February 2020 by the parties to the Revitalized Agreement.

20. The third target should be the completion of the disarmament, demobilization and reintegration process. This target can be measured by:

(a) Development and implementation of a plan for the collection and disposal of long- and medium-range heavy weapons;

(b) Establishment and implementation of a disarmament, demobilization and reintegration programme, with adequate funding, that takes into account the different needs of male and female former combatants;

(c) Development of a time-bound plan for the complete and verifiable demilitarization of all civilian areas, which may also include the implementation of civilian violence reduction programmes.

21. The fourth target should be the enhancement of the capacity of South Sudanese defence and security forces to properly manage their existing arms and ammunition stockpiles, which includes the proper recording, storage, distribution and management of the weapons and ammunition. This target can be measured by:

(a) Development of a planning document on the requirements of the defence and security forces for weapons and ammunition storage facilities, and the training and vetting of defence and security forces for the management of those weapons and ammunition facilities;

(b) A weapons registration and management protocol (covering small arms and light weapons) for the defence and security forces, the establishment of a system of individual receipt of weapons, and a system for applying individual accountability measures in case of loss, theft or diversion of weapons;

(c) A protocol for the collection, destruction or transfer to the defence and security forces of surplus, unregistered or illicitly held weapons and ammunition seized by the forces.

### **Benchmark 3: progress in the humanitarian and human rights situation**

22. A benchmark focused on the humanitarian and human rights dimensions of the Revitalized Agreement, notably improving humanitarian access, facilitating achievement of durable solutions for refugees and internally displaced persons and addressing human rights violations, is relevant to the assessment and adjustment of the arms embargo. Achievement of this benchmark can create a more conducive environment for delivering humanitarian assistance, strengthening the rule of law and combating impunity, thereby reducing the prospect of armed violence.

23. The first target should be to create an enabling environment for the delivery of humanitarian assistance and protection of civilians. This target can be measured by:

(a) Establishment and implementation of the political, legal, administrative and operational policies and procedures to facilitate the voluntary, dignified and safe return of refugees and internally displaced persons to their homes and places of residence, their local integration or their resettlement elsewhere in the country;

(b) Sustained reduction in violations of the status-of-forces agreement, including with regard to UNMISS freedom of movement, which impede the implementation of the UNMISS mandate to protect civilians and create the conditions conducive to the delivery of humanitarian assistance.

24. The second target should be to reduce the levels of sexual and gender-based violence, with a focus on conflict-related sexual violence, which is largely perpetrated by the security forces. The target can be measured by:

(a) Full implementation of the joint action plan for the armed forces on addressing conflict-related sexual violence,<sup>11</sup> with an immediate emphasis on training, awareness-raising, accountability and oversight of the defence and security forces;

(b) Engagement by national and state-level authorities with civil society organizations and international partners in efforts to sensitize communities to the prevention of sexual and gender-based violence and to encourage the reporting of such crimes and reduce the stigmatization of victims.

25. The third target is the operationalization of the agreed transitional justice mechanisms contained in the Revitalized Agreement to provide accountability for crimes and violations committed and to promote reconciliation. This target can be measured by:

(a) Establishment of the Hybrid Court of South Sudan,<sup>12</sup> with the first steps including the conclusion of a memorandum of understanding between the African Union Commission and the Revitalized Transitional Government of National Unity; the elaboration by the African Union Commission with the Minister of Justice of a clear timeline for the Court to be operationalized; and the adoption of legislation for the Court's establishment by the Transitional National Legislative Assembly;

(b) Establishment of a functional Commission for Truth, Reconciliation and Healing,<sup>13</sup> starting with the drafting of the required legislation, followed by adoption of the legislation by the Transitional National Legislative Assembly;

(c) Establishment of the Compensation and Reparation Authority,<sup>14</sup> with the Revitalized Transitional Government of National Unity allocating and transparently managing the funding of the Authority; the executive body of the Authority should include representatives of civil society organizations, women's groups, faith-based leaders, the business community, youth and traditional leaders;

(d) Achievement of the 35 per cent quota for women's representation in the above-mentioned transitional justice mechanisms, with representation from civil society, including women's groups.

## IV. Conclusion

26. I commend the parties for the progress made in the implementation of some aspects of the Revitalized Agreement. However, there is a real need to accelerate

<sup>11</sup> Signed by the senior leadership of the Joint Defence Board in January 2021. The action plan builds on the action plans established by the South Sudan People's Defence Forces, the Sudan People's Liberation Movement/Army in Opposition and the South Sudan National Police Service and standardizes efforts to prevent and respond to conflict-related sexual violence for a three-year period until December 2023.

<sup>12</sup> The Hybrid Court of South Sudan is an independent hybrid judicial court to be established by the African Union Commission to investigate and, where necessary, to prosecute individuals bearing responsibility for violations of international law and/or South Sudanese law, including gender-based crimes and sexual violence, committed from 15 December 2013 to the end of the transitional period.

<sup>13</sup> The Commission is mandated by the Revitalized Agreement to inquire into all aspects of human rights violations and abuses, breaches of the rule of law and excessive abuses of power committed by all State and non-State actors, and to investigate, document and report on the course and causes of conflict and recommend processes for the full enjoyment by victims of the right to remedy, including by suggesting measures for reparations and compensation.

<sup>14</sup> According to the Revitalized Agreement, the Compensation and Reparation Authority shall provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods in accordance with a well-established criterion set by the Revitalized Transitional Government of National Unity.

progress in meeting the key provisions of the Revitalized Agreement and the expectations of the people of South Sudan. The consideration by the Security Council of the proposed benchmarks on the arms embargo, contained in the present report, could play an important role in facilitating the implementation of the Revitalized Agreement. Likewise, South Sudan will require the continued support of the international community and regional and subregional organizations and the cooperation of neighbouring States.

27. I am encouraged by the broad engagement with the Secretariat, including on the part of the Revitalized Transitional Government of National Unity, in the preparation of the present report. The proposed benchmarks are aimed at identifying targets that can be the basis for the consideration by the Security Council of the efficacy and continued relevance of the arms embargo. I urge the Council to consider these benchmarks, which include the targets related to the gender commitments agreed to by the parties to the Revitalized Agreement. The proposed benchmarks also show recognition of the important contribution that civil society, including women civil society leaders and diverse women's groups, has made in relevant consultative processes. Once the benchmarks have been established, progress on their implementation should be regularly reviewed, with a view to adjusting or lifting the embargo once the stated objectives for this sanctions measure are fully met.

28. The present report does not include specific benchmarks and targets to be met by the non-signatory parties to the Revitalized Agreement, although the completion of several targets of the proposed benchmarks may be affected by the actions of these groups. I strongly encourage these groups to adhere to the provisions of the Cessation of Hostilities Agreement and the permanent ceasefire, in particular to respect and ensure full compliance with international human rights law and international humanitarian law.

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