



Republic of South Sudan

Ministry of Petroleum & Mining

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July 8th, 2014

**To: Emma Vickers
Campaigner on South Sudan
Global Witness**

Dear Emma,

Sub: The Call for a Moratorium on New Oil Contracts in South Sudan

Thank you for your report referred to above issued in June 2014 and for your continued interest in the Republic of South Sudan. We appreciate your thoughtful input.

We at the Ministry of Petroleum and Mining (MPM) have given careful consideration to the arguments contained in your report. Unfortunately, however, we cannot agree that a moratorium on petroleum contracting is at this time in the best interests of the citizens of the Republic of South Sudan. I wish to bring the following to your attention:

1. MPM undertakes with extreme seriousness its responsibility to regulate the petroleum sector in South Sudan within the letter and spirit of its constitutional and statutory authorizations and obligations. MPM carries out this responsibility for the long-term benefit of South Sudan and its citizenry. I can assure you and the South Sudanese public that MPM has not and would not agree to any contracts or any terms in contracts that are not, in MPM's reasonable opinion, fully in the interests of this nation or its citizens. Moreover, all new petroleum agreements must undergo a constitutional and statutory approval process that provide checks and balances, further ensuring that contracts are not entered into in haste, or under any form of duress, but instead after careful deliberation and taking into account the best interests of this nation and all of its citizens, now and in the future.
2. The economy of South Sudan is currently substantially dependent on our petroleum industry. Even while we seek to diversify our economy and attract investments in new

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The Minister



industries, we foresee the oil industry as remaining a substantial if not predominant sector of our economy for a number of years into the future. Absent new investment, existing sources of crude oil are projected, however, to decline over time. It is essential to the future well being of this nation that exploration and development activities expand, in existing and new blocks, so that levels of oil production are maintained and increased over time. Increased production levels would have the additional benefit of supporting new infrastructure investment, such as, for example, potential new export pipelines and transportation corridors. Especially in light of our current dependence on existing pipelines transiting the Republic of Sudan, new infrastructure investments, such as new export pipelines, are strategic necessities that simply cannot be put off to another day.

3. The petroleum industry is a long lead-time business. It requires substantial investments over a long period of time before oil or natural gas can be produced and delivered to market, domestic or foreign. A contract entered into today may not result in commercial production of oil or natural gas for a number of years, perhaps as long as a decade or even longer. Any artificial undue delay in entering into contracts will simply prolong the time before new sources of oil and natural gas are developed and used to generate new sources of revenue. The same lead-time is required for other substantial investments in the petroleum industry, such as for pipelines and other essential infrastructure. MPM believes this kind of delay is definitely not in the interests of South Sudan. If we were to delay, we might put at risk the future growth and stability of our nation, not just in terms of the oil sector, but in terms of the many sectors that our oil revenues must help to establish if we are to diversify our economy and provide jobs and improved livelihoods to our people.
4. To date, MPM has not signed new production sharing agreements (other than the Transition Agreements for existing producing blocks). You should be aware, however, that the Government of Sudan entered into certain contracts in non-producing blocks in South Sudan with certain foreign oil companies before South Sudan declared its independence and became a sovereign state. While those pre-independence contracts are not binding on South Sudan, they do fall under Section 100 of the Petroleum Act 2012. That statutory provision grants the Minister discretion to enter into new agreements in respect of those blocks outside of the public tender procedures. MPM for some time has been engaged in negotiations for agreements falling under the Minister's discretion pursuant to Section 100 of the Petroleum Act 2012. Those negotiations have been entirely unaffected by the current conflict. That is, full compliance with the terms of the Petroleum Act 2012 have been respected in the drafts under discussion as well as the maintenance of international best practices. These include improvements upon provisions related to, among others, social and environmental assessments, decommissioning standards, and community participation.
5. With respect to all contracts other than those where the Minister has exercised or will exercise his discretion under Section 100 of the Petroleum Act, the public tender procedures of the Petroleum Act 2012 will apply. MPM is fully engaged in implementing the Petroleum Act 2012 and is well on course in promulgating implementing regulations. MPM does not currently intend to award new contracts for



these blocks other than pursuant to the procedures prescribed by the Petroleum Act 2012. Furthermore, we fully expect that the Petroleum Revenue Management Bill mentioned in your report will be adopted well before any revenue arising from oil or gas production under these new contracts. Finally, I want to reassure you that South Sudan remains committed to the transparency obligations of the Petroleum Law as cited in Global Witness' report. MPM is currently reviewing such provisions along with the confidentiality obligations under the various agreements. MPM plans to make a number of disclosures to the public in the near future.

6. It is a matter of extreme importance, to the benefit of the citizens of South Sudan, that the Government be able to fund its budget. New contracts will not materially impact the funding of current budgets because, as noted above, new oil and gas production will not result for a number of years. Whatever proceeds are received in the form of signing bonuses or otherwise under any new contracts will be de minimis in relation to the national budget and will not affect policy or the overall capabilities of the Government.
7. The concerns you raise about security are of the utmost importance to our government. It is an essential function of our government, as true for all governments, to provide for the safety and security of our citizens. If we were to believe that the conduct of petroleum operations in a given area might result in violence, we will take every lawful measure to prevent that violence and to safeguard the safety and security of all affected persons, as would any other government in similar circumstances. We do not believe there is any incompatibility between fostering a healthy and growing petroleum industry, on the one hand, and protecting the safety and security of our people, on the other. Each of those key objectives is entirely aligned. Moreover, I would draw to your attention Section 173(2)(m) of our Constitution, which provides that a guiding principle for petroleum and gas development and management in South Sudan is "accountability for violations of human rights and degradation to the environment caused by petroleum and gas operations." If you have evidence of any such violations, please bring it to the government's attention.
8. I am not familiar with all of the examples in your report where you state that moratoria on new contracts have been adopted. It appears, however, that in none of those instances is the affected industry as important to the relevant country's budget as the petroleum industry is to South Sudan. Nor do any of your examples involve new countries seeking to expand and diversify economic activity or dealing with a situation comparable to the pre-independent contracts as those falling under Section 100 of the Petroleum Act 2012. Your examples further suggest that South Sudan is lacking in the requisite institutional capacity and knowledge to effectively manage and develop its natural resources. I disagree. MPM has a competent and dedicated staff of public servants working hard every day to serve the people of South Sudan. Many of MPM's employees have substantial experience in the oil sector. I am proud of them and the work they do on behalf of South Sudan. For all these reasons, I do not believe those other situations are comparable or persuasive to the situation now facing South Sudan.



Thank you again for your continued interests in the proper management and development of South Sudan's resources for the maximum benefit of the people.

Yours sincerely,



Hon. Stephen Dhieu Dau
Minister of Petroleum and Mining



- CC: - Hon. Aggrey Tissa Sabuni, Minister of Finance, Commerce, Investment and Economic Planning
- Hon. Paulino Wanawila, Minister of Justice
 - Hon. Elizabeth James Bol, Deputy Minister, MPM
 - Mr. Machar Aciek Ader, 1st Undersecretary, MPM
 - Dr. Cosmas Pittia Kujjo, Director General of Petroleum, MPM
 - Ms. Akur Ajuoi Magot, Legal Advisor, MPM